



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

114**CWP-4983-2018****Date of Decision: 04.02.2025****Prem Kaur**

....Petitioner

Versus

State of Haryana and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Aman Pal, Advocate and
Mr. Japsehaj Singh, Advocate
for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana and
Mr. Saurabh Mago, Deputy Advocate General, Haryana.

Sureshwar Thakur, J. (Oral)

1. The present petitioner along with the other land losers concerned had earlier instituted CWP-23623-2011. All the writ petitions relating to the subject lands were decided through a common judgment becoming made thereon, on 20.08.2013 (Annexure P-8).

2. The relevant operative part of the directions passed in the said verdict, are extracted hereinafter:-

“(11) The State counsel or the officers of the Department who are present in Court, have not been able to furnish the accurate measurements of released properties of each petitioner. Since there is a reference in the written statement of the exact measurements of some of the released structures, it can be safely inferred that the respondents have released the area(s) of actual



structures only. Similarly, partly built, temporary sheds or vacant small plots have not been admittedly released.

(12) *After giving our thoughtful consideration to the respective submissions made by counsel for the parties, it appears that the object and import of the policy dated 26th October, 2007, cannot be artificially restricted or curtailed only to release the 'existing structure' without any open space for the meaningful, proper and effective utility of the released properties. Any rigid construction of the policy can even take away the most sacrosanct fundamental right, to live with human dignity, within the meaning of Article 21 of the Constitution. While there can be no hard and fast rule in this regard but a uniform criteria to release the open space near or equivalent to the size of the constructed portion subject to the total area under acquisition of the owner, can be a just and fair guiding factor. Similarly, the respondents need to take a holistic view whether partially built or vacant small size plots can also be released without affecting the 'public purpose' of acquisition, say when an isolated small plot cannot be utilized for any 'public purpose' and the owner is willing to deposit external/internal or other statutory charges.*

(13) *We are, however, not inclined to issue any general directions in terms of what has been stated above. We say so for the reason that in some of the cases no notice was issued to the respondents and correctness of their factual averments were not ascertained. Similarly, in the case of a few petitioners, the respondents have disputed the existence of any*



partially built residential house/structure. In a such like situation, it would be appropriate to lay down broad principles to be followed by the respondents for the release of small size properties of the petitioners subject to the directions to be issued hereinafter.

(14) *Since, correct facts at the spot in respect of the claim of each petitioner must be verified before re-determination of the actual area of their respective properties released or to be released, we dispose of these writ petitions with a direction to the respondents to conduct fresh survey of the property(ies) owned by each petitioner and thereafter re-determine the area released/to be released in terms of the directions and observations issued/made hereinabove.*

(15) *Similarly, wherever the petitioner(s) is/are owner in possession of the plots measuring 250 sq.yards or less than that and if no public purpose can indeed be achieved by acquiring those vacant plots except that it is not needed for a 'public utility' like road, greenbelt, sewerage etc., let the claim for release of those plots be also considered."*

3. The circumspect reading of the hereinabove extracted relevant paragraphs of the directions passed in the supra writ petition, reveals that the *lis* Court had taken a view that the acquiring authority considered the releasing of the respective constructions raised over the subject lands prior to the issuance of the notification under Section 4 of the Land Acquisition Act, 1894, to consider the releases of vacant plots to the land losers concerned. However, the said was to be as apparent on a reading of the speakings, which occur in paragraph 12, that in making the orders for release or otherwise, the acquiring



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authority was to take a holistic view whether partially built or vacant small size plots can be so released without affecting public purpose of acquisition, besides it is also directed that when an isolated small plot is unutilizable for any public purpose and the owner is willing to deposit external/external or other statutory charges, therebys, such an isolated plot, was declared to be considered for being released.

4. In pursuance to the said passed directions, the Land Acquisition Collector concerned, has rendered Annexure P-9, and the relevant portion of Annexure P-9, as appertains to the present petitioner, is carried in, is extracted hereinafter:-

“ii) Petitioner Smt. Prem Kaur appeared and submitted that she has claimed land measuring 1540 sq. yds and there is construction existing at the site in form of a residential house.

LAO, Hisar reported that total land claimed by petitioner is 1540 sq. yds falling in khasra no.168//19 in sector-9, Part Dadri. The compensation for the acquired land qua the petitioner is unpaid. In view of the directions of Hon’ble High Court, land measuring 250 sq. yd land of the petitioner is recommended for release.”

5. Reading of the above extracted portion of the speaking order rendered by the competent authority reveals, that therebys, the competent authority had only ordered for the releasing of land measuring 250 square yards viz-a-viz the present petitioner, whereas the other part of the land of the petitioner from the total acquired holdings measuring 1540 square yards, thus, not becoming ordered to be released to the present petitioner.

6. Learned counsel appearing for the petitioner has vehemently



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argued, that since in terms of the directions supra passed by this Court, there was a duty cast upon the competent authority to, while considering the retention of the acquired lands for furthering the public purpose concerned to state so through a well informed reasons become recorded, whereas the competent authority not recording such well firmed reasons, rather a cryptically drawn order becoming recorded by the competent authority, wherebys, on the part of the land of the present petitioner has been ordered to be released from acquisition, but the other part of the petitioner's land has not been ordered to be released from acquisition.

7. *Prima facie*, reading of the order as appertains to the present petitioner concerned, the same is cryptically recorded, but since a detailed reply on affidavit has been furnished to the instant petition by the respondents, wherein in paragraph 12 thereof, para whereof becomes extracted hereinafter, it becomes explicated that the subject lands are required for furthering the requisite public purpose.

“12. That as per report received from District Town Planner, Charkhi Dadri, as per the approved layout plan of Secto-9 Part and 10 Part (Residential) bearing drawing No.DTP (CD) 9/2021 dated 04.08.2021, the land in question is affecting the planning of Sector i.e. 12 mts. Internal Roads, Area Reserved for EWS site/Low Cost Housing, 02 Nos. plot of 04 Marla, 05 Nos. plot of 10 Marla, Park Area, Dispensary Site, Release Land and 05 Nos. of Plot 01 kanal, thus, land is essential for achieving the public purpose and cannot be released from acquisition. The copy of the Layout plan showing the land of the petitioner and effect on the planning is annexed as Annexure R-2.”



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8. Moreover, it is also been most candidly stated therein that the said requirement of the subject lands for furthering the public purpose concerned, is hinged upon a layout plan appended as Annexure R-2, thereby, when the engineering cell of the acquiring authority has declared that the subject lands are required for furthering the public purpose, thereby, in the exercise of writ jurisdiction, this Court cannot interfere or tinker with the expertise of the engineering cell deployed as such by the respondents.

9. Since the learned Additional Advocate General, Haryana, stated in paragraph 11 of the reply, para whereof becomes extracted hereinafter, that directions be passed upon the petitioner, as the external development charges has not been deposited, in terms of the order dated 20.08.2013.

“11. That in compliance of the above order dated 20.08.2013, the land measuring 250 square yards of the petitioner has also been released from acquisition vide proceeding dated 23.11.2015. The operative part of the proceedings dated 23.11.2015 is reproduced below:-

“....xxxxx.....xxxxx.....xxxxx.....xxxxx.....xxxxx

ii) Petitioner Smt. Prem Kaur appeared and submitted that she has claimed land measuring 1540 sq. yds and there is constructing existing at the site in form of a residential house. LAO, Hisar reported that total land claimed by petitioner is 1540 sq. yds falling in khasra No.168//19 in Sector-9 Part Dadri. The compensation for the acquired land qua the petitioner is unpaid. In view of the directions of Hon'ble High Court, land measuring 250 sq. yd land of the petitioner is recommended for release.

In view of the above, as per direction given by this Hon'ble Court vide order dated 20.08.2013 the land measuring 250 sq. yds has been released from acquisition. The petitioner till date has also

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not deposited the external charges as per the order dated 20.08.2013 passed in Civil Writ Petition No.23386 of 2011. Thus, the present petition deserves to be dismissed on this ground also.”

10. After finding no merits in the instant writ petition, the same is dismissed.
11. Pending applications, if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

February 04, 2025*Varinder*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No