

(2023) 02 SC CK 0063

In the Supreme Court Of India

Case No : Civil Appeal Nos. 1347-1349, 1351 Of 2023

State Of Haryana & Ors.

APPELLANT

Vs

Niranjan Singh & Ors. Etc.

RESPONDENT

Date of Decision : 24-02-2023

Acts Referred:

Constitution Of India, 1950 — Article 14
Land Acquisition Act, 1894 — Section 4, 5A, 6

Citation : (2023) 02 SC CK 0063

Hon'ble Judges : M.R. Shah, J;C.T. Ravikumar, J

Bench : Division Bench

Advocate : Gaurav Agrawal, Sahil Tagotra, Abhishek Pandey, Abhivyakti Banerjee, Sakshi Garg, Alok Sangwan, AAG Sumit Kumar Sharma, Rajat Sangwan, Avi Dhankar, Dr. Monika Gusain, Rajiv Ranjan Dwivedi, Neeraj Kumar Jain, Aabhas Kshetarpal, Siddhartha Jha, Priyambika Mk Jha, Narender Hooda, Dr. Surender Singh Hooda, Shaurya Lamba, Bano Deswal, Sahil Tagotra, Abhishek Pandey, Abhivyakti Banerjee

Final Decision : Allowed

Judgement

M.R. Shah, J

1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 09.04.2021 passed by the High Court of Punjab and Haryana at Chandigarh in CWP No. 16346/2013, CWP No. 6729/2013 and CWP No. 10452/2014, by which, the Division Bench of the High Court has allowed the said writ petitions and has set aside the action of the State in declining prayer of the original writ petitioners – original land owners for release of their respective acquired land(s) and consequently, has directed to release their respective acquired land(s) from acquisition, the State of Haryana and others have preferred the present appeals. Feeling aggrieved and dissatisfied with the impugned judgment and order passed in writ petition - CWP No. 10452/2014, the beneficiaries of the acquisition have also preferred the present appeal arising out of Diary No. 37052/2022.

1.1 At the outset, it is required to be noted that Civil Appeal No. 1347/2023 arising out of SLP (C) Nos. 11842/2022 is concerned, the same is against the impugned judgment and order passed by the High Court in CWP No. 6729/2013. Civil Appeal No. 1348/2023 arising out of SLP (C) No. 11843/2022 is concerned, the same is against the impugned judgment and order passed by the High Court in CWP No. 16346/2013 and Civil Appeal No. 1349/2023 arising out of SLP (C) No. 11844/2022 is concerned, the same is against the impugned judgment and order passed by the High Court in CWP No. 10452/2014.

2. For the sake of convenience, the facts of CWP No. 16346/2013 are considered which was also considered by the High Court as a lead matter.

FACTS IN CIVIL APPEAL NO.1348 /2023 ARISING OUT OF CWP NO. 16346/2013

2.1 That the State of Haryana issued a notification dated 21.04.1987 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), intending to acquire the land measuring 35.76 acres for the development and utilization of land as residential and commercial Sector 11, Kurukshetra and the same was followed with declaration/notification under Section 6 of the Act dated 20.04.1988. The objections were invited from all the concerned land owners. That thereafter, the award was pronounced by the Land Acquisition Collector on 12.04.1990 for the land measuring 34.61 acres only. That thereafter, a further notification was issued by the State of Haryana under Section 4 of the Act dated 11.02.2002 for acquiring the land measuring 126.30 acres for residential, commercial and institutional purposes in Sector 6 and 11, Kurukshetra. It appears that even before the issuance of notification under Section 6 of the Act, the land measuring 81.91 acres belonging to 43 land holders came to be released, details of which shall be considered hereinbelow. That thereafter, except the original writ petitioners of CWP No. 16346/2013, rest of the lands acquired belonging to the different land holders came to be released from acquisition either by the State Government or pursuant to the order(s) passed by the High Court in various writ petitions, the area of which amounts to 40.80 acres. The particulars of the land released with respect to the land acquired vide notification dated 21.04.1987 in tabular form are as under: -

Sr.

No.

Acquisition details of land acquired under

L.A. Act, 1894

Area in

acres

1.

Section -4, 21.4.1987

46.49

2.

Land excluded u/s 5 A

10.83

3.

Section -6, 20.4.1988

35.66

4.

Land released between u/s 6 and award

1.05

5.

Award 12.04.1990

34.61

6.

Land released after award

26.83

7.

Balance Land Area [5-(6+7)]

7.78

8.

CWPs pending u/s 24(2)

4.056

9.

CWPs pending other than u/s 24(2)

1.125

10.

CWPs dismissed/acquisition upheld

NA

11.

CWPs allowed/acquisition quashed by Hon'ble High Court where SLP filed

or yet to be filed.

0.50

2.2 That thereafter, the original writ petitioners filed the writ petition before the High Court challenging the acquisition by filing CWP No. 371/2008 which came to be dismissed as withdrawn vide order dated 11.01.2008 by granting liberty to the land owners to file a representation before the authorities concerned for redressal of their grievance. As a result of which, the original writ petitioners filed a representation dated 22.01.2008 praying for release of their acquired land on parity with the similarly situated persons whose land was released by the State. That thereafter, after the second round of litigation, the representation came to be dismissed and the prayer of the original land owners to release their land from acquisition came to be rejected. The same was the subject matter of CWP No. 16346/2013 before the High Court.

2.3 Now, so far as Civil Appeal arising out of CWP No. 6729/2013 is concerned, the representation filed by the original land owners for release of their acquired land came to be rejected vide order dated 15.06.2012, which was the subject matter of CWP No. 6729/2013.

2.4 Similarly, original writ petitioner – Anita Kumari Sharma filed CWP No. 10452/2014 before the High Court rejecting their prayer to release the land from acquisition.

2.5 By the impugned common judgment and order, the High Court has allowed the said writ petitions and has set aside the orders/notifications issued by the Government and the action of the State Government in declining prayer of the writ petitioners – original land owners for release of their respective acquired land(s) being violative of Article 14 of the Constitution of India by observing that the major chunk of the land belonging to the similarly situated land owners already stood released. Consequently, the High Court has directed to release the land belonging to the original land owners from the acquisition.

2.6 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court, the State of Haryana and others have preferred the present appeals.

3. Shri Alok Sangwan, learned AAG appearing on behalf of the State has vehemently submitted that as such the land in question is needed by the State and therefore, the High Court has materially erred in directing to release the land in question from acquisition.

3.1 It is vehemently submitted by Shri Sangwan, learned AAG appearing on behalf of the State that once the lands in question have been acquired after following the due procedure required under the Act and thereafter, the award came to be passed and even the compensation was paid and the possession was taken over and the lands actually vested in the State Government/acquiring body. It is submitted that therefore, the High Court has materially erred in

directing to release the acquired lands from acquisition.

3.2 It is further submitted by learned AAG that the High Court has not properly appreciated the fact that other lands were released by the State pursuant to the order(s) passed by the High Court in various writ petitions.

3.3 It is further submitted by learned AAG appearing on behalf of the State that so far as the land acquired with respect to CWP No. 10452/2014 is concerned, the land in question is already utilized and used for the sewage line and Rs. 17 crores have been spent in constructing the sewage line and it is submitted that therefore, if the land is released, as ordered by the High Court, the same shall be against the public interest and the entire sewage line which has been constructed after spending Rs. 17 crores will have to be removed. Shri Gaurav Agrawal, learned counsel appearing on behalf of the residents of the locality has also vehemently submitted that if the land in question is released from acquisition as ordered by the High Court in that case the sewage line already constructed will have to be removed which will be against the public interest and also against the interest of the residents of the locality.

3.4 It is further submitted that so far as the land with respect to CWP No. 6729/2013 is concerned, the same is required by the State for widening of the road and therefore, the State was justified in refusing to release the land from acquisition.

3.5 Now, so far as the land with respect to CWP No. 16346/2013 is concerned, it is submitted that the said land is required for constructing the shopping mall and the parking and therefore, the prayer of the original land owners to release their land(s) from acquisition was rightly rejected by the authority.

3.6 Making the above submissions, it is vehemently submitted by learned AAG that the High Court has materially erred in quashing and setting aside the orders passed by the State/authority rejecting the prayer of the original writ petitioners – land owners to release their land(s) from acquisition and the High Court has materially erred in directing to release the acquired land(s) in question from acquisition.

4. While opposing Civil Appeal arising out of CWP No. 16346/2013, Shri Neeraj Kumar Jain, learned Senior Advocate has vehemently submitted that in the present case, the State Government has released the major chunk of the land arising out of the very notification and only, small portion of the land belonging to the original writ petitioners have not been released. He has taken us to the map showing that except the plot/land in question of the original writ petitioners and others, all other major chunk of the lands have been released from acquisition. He has vehemently submitted that out of total land approximately 46.49 acres for which the notification under Section 4 was issued, land measuring 10.83 acres came to be excluded at the stage of inquiry under Section 5 A. The award came to be declared with respect to the land measuring 34.61 acres only and thereafter, the land measuring 26.83 acres came to be further

released after the award was passed and the land measuring 7.78 acres came to be continued under acquisition, out of which further two writ petitions are pending with respect to the land measuring 4.056 acres and 1.125 acres and it is submitted that only small plot(s) of the original writ petitioners have not been released, which has already been observed and held by the High Court that the same is discriminatory and violative of Article 14 of the Constitution of India.

4.1 Shri Neeraj Kumar Jain, learned Senior Advocate appearing on behalf of the original writ petitioners has further submitted that one Vipin Jindal whose lands was declared under the same notification, filed writ petition (CWP) No. 3780/2008 before the High Court challenging the acquisition and also praying for release of the land(s) from acquisition, which came to be dismissed by the High Court vide order dated 13.03.2008. It is submitted that the said Vipin Jindal filed civil appeal(s) before this Court and this Court disposed of the said civil appeal(s) by permitting the land owner(s) to file a representation before the appropriate authority of the State Government to release the land from acquisition. It is submitted that this Court has specifically observed that somewhat inconsistent stand has been taken on the part of the State Government and if, similarly situated persons had been granted relief, the appellant therein ought to be granted similar relief. It is submitted that thereafter, land belonging to the said Vipin Jindal has been released by order dated 02.08.2016 on the condition that he will return the compensation amount received by him to the department along with interest and he will surrender the land falling in the road alignment HUDA.

4.2 Shri Neeraj Kumar Jain, learned Senior Advocate appearing on behalf of the original writ petitioners has also taken us to the judgment and order passed by the High Court in writ petition No. 5732/1988, by which, the High Court has quashed the acquisition. Shri Neeraj Kumar Jain, learned Senior Advocate has also taken us to the judgment and order passed by the High Court in CWP No. 11377/1988, by which, the High Court quashed the acquisition by observing that the State Government withdrew from acquisition some of the area which belonged to the then Speaker of the Haryana Vidhan Sabha and another portion belonging to the Radha Swami Satsang, Kurukshetra. It is submitted that therefore, the High Court observed that the decision of the State Government to continue with the acquisition was arbitrary and violative of Article 14 of the Constitution of India. It is further submitted by Shri Neeraj Kumar Jain, learned Senior Advocate that except small parcel/portion of the land belonging to the original writ petitioners all other major chunk of the lands/plots have been released and the land in question is not required now and therefore, there is no valid reason not to release the land(s) of the original land owners from acquisition. It is submitted that therefore, the High Court has not committed any error in allowing the writ petitions and directing the State to release their lands from acquisition on the parity.

4.3 Shri Sachin Jain, learned counsel appearing on behalf of the original writ petitioners in SLP (C) No. 11844/2022 arising out of CWP No. 10452/2014,

though is not disputing that the land in question belonging to the original writ petitioner has already been utilized and used for sewage line, submitted that the remaining land after deducting the land already used for laying down the pipes be released.

4.4 Learned counsel appearing on behalf of the original writ petitioners in SLP (C) No. 11842/2022 arising out of CWP No. 6729/2013 has adopted the submissions made by Shri Neeraj Kumar Jain, learned Senior Advocate.

5. Having heard Shri Alok Sangwan, learned AAG, appearing on behalf of the State and Shri Neeraj Kumar Jain, learned Senior Advocate, appearing on behalf of the original writ petitioners in civil appeal arising out of CWP No. 16346/2013 before the High Court and having gone through the material on record and the manner in which the State has dealt with the acquisition proceedings and has released the lands acquired from time to time right from the proceedings at the stage of Section 5 A of the Act and thereafter is highly deprecable. Earlier the lands have been released by the State Government initially in favour of the influential persons and thereafter pursuant to the various orders passed by the High Court which were never challenged by the State, it demonstrates the arbitrary exercise of powers by the State in releasing the acquired lands which as such required for public purposes. At the outset, it is required to be noted that when the lands are acquired for the utilization and development as residential and commercial area to develop new sectors and that too by the urban development authority, the future need is required to be considered and the expansion in future is also required to be taken into consideration and/or bear in mind. The expansion in future in the next 20-25 years is required to be taken into consideration and/or is required to be considered when use of such a vast land for the development of the area/new sectors are required.

5.1 In the present case, it is not in dispute that large chunk of area measuring 46.49 acres was acquired as far as back on 21.04.1987. Such a large chunk of land was acquired for the development and utilization of land as residential and commercial area in Sector 11, Kurukshetra by the Haryana Urban Development Authority (HUDA). Out of 46.49 acres of land acquired vide notification under Section 4, 10.83 acres of land came to be excluded from acquisition at the stage of notification under Section 5 A. Out of remaining 35.66 acres of land, 1.05 acres of land was released between Section 6 notification and the award. Thereafter, out of remaining 34.61 acres of land, 26.83 acres of land came to be released after award dated 12.04.1990. Therefore, the balance land remained to the extent of 7.78 acres only, out of which even at present approximately 6 acres of land acquired is under litigation. Therefore, the land with respect to the original writ petitioners of CWP No. 16346/2013 is only small plots of the land which remained. If the map produced on record is considered except the present small portion/plot in question, all other major chunk of the land, the particulars of which are given as above, have been released either by the State on its own and/or pursuant to the order(s) passed by the High Court which were never

challenged by the State and it seems that the State was happy with the decision of the High Court directing to release the lands from acquisition. In the earlier order passed by this Court in Civil Appeals No. 3235-3237/2015 with respect to the lands acquired by the very notification, it appears that this Court took note of the release of the lands by the State Government upon refund of compensation. This Court took note of the fact that several land owners whose lands were acquired filed writ petitions challenging the notification, which writ petitions were however, withdrawn with liberty to file representations with the State Government and thereafter, the representations were answered in favour of the writ petitioners by ordering release of the land after refund of compensation. Therefore, this Court in the case of Vipin Jindal (supra) also relegated/permitted the said land owner to file a representation by observing that somewhat inconsistent stand has been taken on the part of the Government. That thereafter, the representation of Vipin Jindal has been considered favourably and his land has been released from acquisition.

5.2 Even from the judgment and order passed by the High Court in CWP No. 11377/1988, by which, the High Court allowed the said writ petition and quashed the acquisition with respect to some of the lands acquired by the said notification, it appears that what weighed with the High Court was after the notification under Section 6 of the Act, the Government withdrew from acquisition some of the area which belonged to the then Speaker of the Haryana Vidhan Sabha and another portion belonging to the Radha Swami Satsang, Kurukshetra.

5.3 Thus, from the aforesaid, it is apparent that earlier except the land in question belonging to the writ petitioners of CWP No. 16346/2013, all other lands have been released except the small parcel/plot of the lands belonging to the original writ petitioners. Now, non-release of land is sought to be justified on the ground that the same is now proposed to be used as shopping mall and parking. It is required to be noted that the land in question has been acquired in the year 1987 along with the total land measuring 46.49 acres, out of which, except the present small parcel/part of the land, all other lands have been released and/or the acquisition with respect to same have been quashed. Considering the aforesaid facts and circumstances, when the High Court has allowed the writ petition - CWP No. 16346/2013 and has quashed the acquisition proceedings and has directed to release the land in question, it cannot be said that the learned Single Judge and/or Division Bench of the High Court has committed any error which caused for interference of this Court. No interference of this Court is called for. However, at the cost of repetition, we deprecate the manner in which the State has dealt with the acquisition proceedings and have released the land(s) and/or permitted the acquisition to be quashed in a most arbitrary manner. The lands as such were acquired for the residential and commercial development purposes which could not have been utilized and used for public purposes and development of the area/sector and the State Government by exercising the powers arbitrarily and/or in favoritism has failed to use the lands for public

purposes for which the lands were acquired. The State Government is guardian of the public interest and the public and the public interest was required to be considered the paramount interest rather than releasing the lands at initial stage in favour of the influential persons. The State shall take care in future and must use the lands acquired for the purpose for which the same have been acquired otherwise the object and purpose of acquiring the land will be frustrated.

5.4 Now, so far as the Civil Appeal arising out of CWP No. 10452/2014 is concerned, at the outset it is required to be noted that the land in question is already utilized and used for the sewage lines and approximately Rs. 17 crores have been spent in constructing sewage lines. Therefore, the High Court has committed a very serious error in quashing and setting aside the acquisition with respect to the said land which is already put to use for the sewage lines which is being used for the public purpose and for the residents of the locality. If the judgment and order passed by the High Court stands in that case, the entire sewage lines will have to be removed which has been constructed after spending Rs. 17 crores and which is being used for public purpose. The submissions on behalf of the original writ petitioners is that leaving aside the land which is already used for the sewage lines, the remaining land be released cannot be accepted. The part land cannot be released and/or with respect to the part land, the acquisition cannot be quashed. It is required to be noted that in the present case the acquisition has been completed including acquiring the land, passing the award and payment of compensation and the land in question is vested in the State Government free from all encumbrances. Under the circumstances, the impugned judgment and order passed by the High Court in CWP No. 10452/2014 is unsustainable and the same deserves to be quashed and set aside.

5.5 Similarly, so far as the Civil Appeal arising out CWP No. 6729/2013 is concerned, the representation of the original writ petitioners to release the land from acquisition is rejected on the ground that the land is required for widening of the road. Having gone through the map, we are of the opinion that when the land in question is required by the State for widening of the road and when the entire acquisition proceedings have been concluded including declaration of the award, passing of the award and the payment of the compensation, the acquisition with respect to the said land which is required for widening of the road ought not to have been quashed and/or the same land was not required to be released. The State was absolutely justified in not releasing the said land which as such is required for the widening of the road. Under the circumstances, the impugned judgment and order passed by the High Court in CWP No. 6729/2013 deserves to be quashed and set aside.

6. In view of the above and for the reasons stated above, Civil Appeal arising out of SLP (C) No. 11843/2022 arising out of the impugned judgment and order passed in CWP No. 16346/2013 is hereby dismissed with the above observations.

7. For the reasons stated above, Civil Appeals, arising out of SLP (C) No. 11844/2022 (arising out of CWP No. 10452/2014) and SLP (C) No. 11842/2022

(arising out of CWP No. 6729/2013) and arising out of SLP (C) No. 3980 of 2023, are hereby allowed. The impugned judgment(s) and order(s) passed by the High Court in CWP Nos. 10452/2014 and 6729/2013 are hereby quashed and set aside. In the facts and circumstances of the case there shall be no order as to costs.