

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2714-2715 OF 2021
(Arising out of SLP(C)Nos. 6411-6412 of 2021)

RAGHUBIR SINGH & ANR. ETC. Appellant(s)

VERSUS

STATE OF HARYANA & ORS. Respondent(s)

WITH

CIVIL APPEAL NOS. 2717-2718 OF 2021
(Arising out of SLP(C)Nos. 14802-14803 of 2020)

CIVIL APPEAL NO. 2719 OF 2021
(Arising out of SLP(C)No. 7417 of 2021)

CIVIL APPEAL NO. 2720 OF 2021
(Arising out of SLP(C)No.6668 of 2021)

CIVIL APPEAL NOS. 2721-2722 OF 2021
(Arising out of SLP(C)Nos.6628-6629 of 2021)

CIVIL APPEAL NO. 2723 OF 2021
(Arising out of SLP(C)No. 8852 of 2021)

CIVIL APPEAL NO. 2724 OF 2021
(Arising out of SLP(C)No. 15383 of 2020)

CIVIL APPEAL NO. 2725 OF 2021
(Arising out of SLP(C)No.10783 of 2021)
(Diary No. 3210 of 2021)

O R D E R

Civil Appeals @ SLP(C)Nos. 6411-6412 of 2021

Leave granted.

These appeals take exception to the judgment and order passed by the Division Bench of the High Court of Punjab and Haryana at Chandigarh dated 01.10.2020 in CM No. 9051 of 2020 in Writ Petition(C) No. 22241 of 2016 and C.M. No. 9059 of 2020 in Writ Petition (C) No. 22247 of 2016.

The question considered by the High Court is : whether the writ petitioners can be allowed to withdraw the writ petitions filed by them primarily seeking declaration of lapsing of acquisition of their lands and as an alternative relief to allow them to approach the respondent-State of Haryana urging to invoke its power to denotify the acquisition of lands in question under Section 101A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for Short, "2013 Act"), as applicable to the State of Haryana?

It is not in dispute that such liberty was granted in other cases by the coordinate Bench of the same High Court. In the present cases, however, the High Court relying on the dictum of the Constitution Bench of this Court in the *Indore Development Authority vs. Manoharlal*

& Ors. reported in (2020) 8 SCC 129, held that after vesting of lands in the State consequent to taking over possession thereof, the land owners cease to have any right over the land in dispute, especially when the acquisition proceedings have been upheld in the same or earlier round of litigation. Resultantly, no liberty can be given to such land owners to approach the State of Haryana for denotifying acquisition in respect of their lands after it had vested in the State. That would be in violation of the settled legal position including the spirit of the Land Acquisition Act, 1894 (for short, "1894 Act"), in particular Section 48 thereof.

While so observing, the Division Bench of the High Court also took note of the fact that the coordinate Benches of the High Court in some other cases had granted such liberty to the land owners - to make representation to the State of Haryana for invoking power under Section 101A of the 2013 Act, as applicable to the State of Haryana. But then, the Court in the impugned judgment went on to observe that it did not agree with that approach. This observation of the High Court, in the impugned judgment, has also been questioned before us by learned counsel appearing for the land owners. They

would urge that, in such a situation, judicial discipline warranted making reference to a larger Bench of the High Court for an authoritative pronouncement.

After hearing learned counsel for the parties, we have no hesitation in observing that the conclusion reached by the Division Bench of the High Court in the impugned judgment is not an accurate statement of law. Indeed, the Constitution Bench considered the question of lapsing of acquisition proceedings in reference to Section 24 of the 2013 Act. While examining that question, it had also noticed Section 101 of the 2013 Act, which deals with return of unutilised land. In that context, the Constitution Bench had observed that Section 101 of the 2013 Act cannot apply to acquisition made under the 1894 Act. However, it had no occasion to deal with the efficacy of Section 101A of the 2013 Act, as applicable to the State of Haryana. Whereas, in the present cases, the land owners had approached the High Court with twin reliefs. The primary relief being for a declaration of lapsing of acquisition proceedings under the 1894 Act and in the alternative to permit them to approach the State of Haryana for invoking power under Section 101A of the 2013 Act as applicable to the State

of Haryana, which has come into force w.e.f. 01.01.2014 vide publication of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment) Act, 2017 - inserted w.e.f. 24.05.2018. Section 101A of the 2013 Act as applicable to the State of Haryana reads thus:

"101A. Power to denotify land - When any public purpose, for which the land acquired under the Land Acquisition Act, 1894 (Central Act 1 of 1894) becomes unviable or non-essential, the State Government shall be at liberty to denotify such land, on such terms, as considered expedient by the State Government, including the payment of compensation on account of damages, if any, sustained by the land owner due to such acquisition:

Provided that where a part of the acquired land has been utilized or any encumbrances have been created, the landowner may be compensated by providing alternative land alongwith payment of damages, if any, as determined by the State Government."

The Statement of Objects and Reasons for inserting Section 101A of the 2013 Act by the State Legislature, makes it amply clear that there is also a need to ensure that land is returned back by the State Government as per the due process, in case the land acquired under the old 1894 Act becomes unviable or non-essential. Further, Section 101A of the 2013 Act is proposed to be added to provide for such expediencies.

Keeping in mind the intent and purport of the State amendment to the principal Act of 2013, the exposition of

the Constitution Bench in reference to the issue of lapsing under Section 24 of the principal Act of 2013, will not affect the regime specified under Section 101A of the 2013 Act, enabling the State Government to denotify the land acquired under the 1894 Act for stated reasons in public interest.

Notably, the validity of Section 101A is not the subject matter of challenge before us from any quarter, for the time being. As long as, the provision exists on the Statute Book, it enables the State Government to take appropriate decision in public interest on the factum of the lands in question, having become unviable or non-essential. This power vested in the State is, indeed, coupled with a duty to periodically evaluate the situation or at least soon after it is brought to its notice by the erstwhile land owners or by any public-spirited person that the immovable public property is being wasted, unutilized or has become unviable or non-essential. After receipt of such representation, it would be the bounden duty of the State to examine the relevant facts and form suitable opinion as may be advised, regarding lands having become unviable or non-essential or not. If it is satisfied that the acquired

lands have become unviable or non-essential, it is expected of the State, nay the State would be obliged in larger public interest to denotify such land on such terms and conditions as may be necessary. Thus understood, there is no reason to assume that the land owners cannot request the State Government to consider such representation inviting a decision of the State, within the realm of Section 101A of the 2013 Act. This provision is certainly not in the nature of giving a vested right to the land owners regarding denotification of the acquired land nor does it follow that upon denotification, the lands in question must return to the erstwhile owners only. It will be open to the State Government to denotify the acquired land on such terms and conditions as may be expedient, in public interest. Thus, the provision empowers the State to denotify the lands acquired under the 1894 Act.

Viewed thus, the conclusion of the Division Bench in the impugned order, that the land owners cannot be allowed to approach the State Government to exercise its power under Section 101A of the 2013 Act, may not be an accurate statement of law and needs to be understood in the above terms.

Accordingly, we set aside the impugned judgment. We make it clear that the writ petitioners - land owners may approach the State Government in reference to Section 101A of the 2013 Act, which representation can be considered by the State Government (State of Haryana) on its own merits; keeping in mind the constricted power given to the State Government to denotify the acquired land if it becomes unviable or non-essential, in public interest and to do so on such terms as may be considered expedient.

The fact that the land owners have already constructed some structures on the acquired land, which has vested in the State Government, by itself can be no reason to denotify the acquired land. It can be done only if the State Government is fully satisfied that the land has become unviable or non-essential for the purpose of development and in particular for reason for which it was so acquired.

The appeals are partly allowed in the above terms. No order as to costs.

Pending applications, if any, stand disposed of.

Civil Appeal @ SLP(C)Nos. 14802-14803 of 2021 & Civil Appeal @ D. No. 3210 of 2021

Leave granted.

In these appeals, the writ petitioners had prayed for declaration of lapsing of acquisition proceedings under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for Short, "2013 Act") and to return subject lands to the writ petitioners forthwith.

The High Court has noted on the basis of facts of the concerned case, that the claim of the writ petitioners was covered by the decision of the Supreme Court in *Indore Development Authority* (supra). There is no reason to depart from that conclusion.

However, the appellants had then requested the High Court to grant liberty to take recourse to Section 101A of the 2013 Act as applicable to the State of Haryana. That liberty has been given to the writ petitioners.

If the appellant(s) so desire, are free to take recourse to that option, which, as aforesaid, the State Government is free to examine the same on its own merits and in accordance with law. As held, the State Government

has constricted power to denotify the acquired land if it has become unviable or non-essential, in public interest and to do so on such terms as may be considered expedient. Construction of structures on the acquired land by the erstwhile land owners by itself can be no reason to denotify the land.

We may not be understood to have expressed any opinion either way in that regard.

The appeals are disposed of in the above terms.

Pending application(s), if any, stand disposed of.

Civil Appeal @ SLP(C)No. 7417 of 2021, Civil Appeal @ SLP(C)No. 6668 of 2021, Civil Appeal @ SLP(C)Nos. 6628-6629 of 2021, Civil Appeal @ SLP(C)No. 8852 of 2021 and Civil Appeal @ SLP(C)No. 15383 of 2020

Leave granted.

In view of the order passed in the companion appeal(s) listed today being Civil Appeal(s) arising out of SLP(C) Nos. 6411-6412 of 2021 titled as Raghbir Singh & Anr. Vs. State of Haryana & Ors., these appeals succeed on the same terms.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(SANJIV KHANNA)

New Delhi;
July 15, 2021.

ITEM NO.8+9+10+11 Court 4 (Video Conferencing) SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).6411-6412/2021

(Arising out of impugned final judgment and order dated 01-10-2020 in CM No. 9051/2020 01-10-2020 in CM No. 9059/2020 passed by the High Court Of Punjab & Haryana At Chandigarh)

RAGHUBIR SINGH & ANR.

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(IA No. 55989/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

WITH

SLP(C) No. 14802-14803/2020 (IV-B)

IA No. 126147/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 126149/2020 - PERMISSION TO FILE LENGTHY LIST OF DATES)
SLP(C) No. 7417/2021 (IV-B)

IA No. 66255/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 6668/2021 (IV-B)

IA No. 59008/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 6628-6629/2021 (IV-B)

IA No. 58649/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 8852/2021 (IV-B)

SLP(C) No. 15383/2020 (IV-B)

Diary No. 3210 of 2021

Date : 15-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Rao Ranjit, AOR

Mr. Narender Hooda, Sr. Adv.

Mr. Vikas Goyat, Adv.

Ms. Seema, Adv.

Mr. Amit Sahni, Adv.

LL 2021 SC 306

Dr. Surender Singh Hooda, AOR

Mr. Siddhartha Dave, Sr. Adv.

Mr. Ankur Mittal, AOR

Mr. Nidhi Mittal, Adv.

Mr. Ankur Saboo, Adv.

Mr. Mahabir Singh, Sr. Adv.

Mr. S.P.S. Chauhan, Adv.

Ms. Preeti Singh, AOR

Mr. Sunklan Porwal, Adv.

Ms. Saumya Dwivedi, Adv.

For Respondent(s)

Mr. B.K. Satija, AAG

Mr. Himanshu Satija, Adv.

Mr. Sanjay Kumar Visen, AOR

Dr. Monika Gusain, AOR

Ms. Adira A. Nair, Adv.

Mr. Veena Bansal, Adv.

Mr. Sorav Jindal, Adv.

Mr. Abhishek Garg, Adv.

Mr. Akshay Goyal, Adv.

Mr. Alok Sangwan, Adv., Senior Additional
Advocate General, Govt. of Haryana

Mr. Sumit Kumar Sharma,

Mr. Anurag Kulharia, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR

[Signed order is placed on the file]