



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103/3

CWP-8354-2006 (O&M)

Date of Decision: 17.02.2025

Monica Madan and another

....Petitioners

Versus

State of Punjab and others

....Respondents

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

Present: Ms. Sumitra, Advocate for
Mr. Sukhdev Singh, Advocate
for the petitioners.

Mr. Maninder Singh, Sr. Deputy Advocate General, Punjab.

Mr. R.S.Khosla, Senior Advocate with
Mr. Yogender Verma, Advocate
for respondent – PUDA.

Sureshwar Thakur, J. (Oral)

1. The writ petition arises from notification(s) issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894'), besides also arise from declaration(s) issued under Section 6 of the 'Act of 1894'.

2. The present petitioner claims the hereinafter extracted reliefs.

*“Civil Writ Petition under Article 226 of Constitution of India,
for quashing:*

a) Notification issued by the Secretary, Housing and Urban Development under Sections 4 dated 14.01.2005 and under Section 6 dated 10.01.2006 of the Land Acquisition Act,



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(Annexure P-2 and P-3 respectively) on the grounds explained in the petition.

And for declaration:

b) That in view of 73rd and 74th amendment of the Constitution of India, Chapter IX and IXA have been added and special provisions are made for Municipalities and Panchayats. For such areas the development can only be done by the Committees for District Planning under Articles 243 ZD and 243 ZF of the Constitution of India and PUDA has no jurisdiction to carry on the planning at Municipal and, Panchayat level, and Section 17 of the Punjab Regional Town Planning and Development Act, 1995 has become unconstitutional.

c) That Section 23(1) First of the Land Acquisition Act. 1894 is ultravires of Article 31-A, Second Proviso, because, the said Act does not provide the fixing of compensation, "at no less than market price", as on the date of acquisition.

AND

d) That acquisition in hand is not being done by state for statutory corporation, known as PUDA but is being done by PUDA for itself in the actual sense and is thus void being in violation to the rule of law laid down in R.C. Cooper's Case reported as AIR 1970 SC 564.

And for declaration:

e) That the provisions of Punjab Regional and Town Planning and Development Act, 1995 are violated and the site is not selected in accordance with provisions of Section 56 of the 1995 Act."

3. The present petitioners are the small land holders in Village Kambala, Tehsil and District Mohali. The petitioner No.1 has land bearing Khasra No.24/24/2 and 25/2/1 and petitioner No.2 has land bearing Khasra



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No.25/3/1/1 and 24/23/1. The Government of Punjab has initiated acquisition proceedings for setting up of residential Urban Estate upon total land measuring 18.40 acres.

4. A notification bearing No.6/35/2004-1HG1/332 under Section 4 of the 'Act of 1894' became issued on 14.01.2005 and it became succeeded by a declaration issued under Section 6 of the 'Act of 1894' on 10.01.2006.

5. The land losers has also filed objection under Section 5A of Land Acquisition Act, 1894. The said objection was rejected and the Land Acquisition Collector has recommended the land for acquisition. Thereafter, the State has issued notification under Section 6 of the Act of 1894. The instant petition has been filed challenging the acquisition proceedings, in the meanwhile, this Court had passed interim order dated 26.05.2006, the operative part whereof becomes extracted hereinafter.

“Notice of motion for 04.07.2006.

Dispossession of the petitioners shall remain stayed in the meanwhile.”

6. In consequence of the interim stay, the acquisition proceedings qua land in question, could not be completed and the award could not be passed thereof.

7. As evident from the reading of the order made on 26.05.2006, qua this Court staying the dispossession of the petitioners over the subject land. Consequently, the period within which the order (supra) remained in operation, is to be, thus within the domain of the explanation carried in



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Section 11-A of the 'Act of 1894', provisions whereof are extracted hereinafter, rather excluded from the ordained period of two years hence commencing from the date of making of a declaration under Section 6 of the 'Act of 1894', thus for the makings of the apposite computations.

(Provisions of Section 11-A of the 'Act of 1894')

[11A. Period within which an award shall be made. - The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made within a period of two years from such commencement.

Explanation - In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.]

8. Moreover, in case no award is pronounced uptil today and the non passing of the award is a sequel of orders of stay becoming granted by this Court, thereby too, in tandem with the above assigned reasons, the acquiring authority may proceed to make a lawful award, both in respect of vacant lands, besides in respect of the acquired construction(s), but bearing in mind as to whether such construction(s) were raised post or prior to the



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making of notification under Section 4 of the 'Act of 1894' besides bearing in mind that such construction(s) were raised prior to coming into force of 'the Defence Act'.

9. In adopting the above view, this Court finds support from a verdict made by the Hon'ble Supreme Court, in case titled as '***The State of Maharashtra and Others Vs. M/s Moti Ratan Estate and Another***' ; 2019 AIR (SC) 4149, wherein, in paragraphs No. 7.5 and 7.8 thereof, paras whereof become extracted, it has been enunciated, that the period during which there is a stay over the action or proceedings by a Court of law, thereupon, the said period has to be excluded in computing the statutory period of two years for the passing of an award under Section 11 of the 'Act of 1894'.

7.5 On considering catena of decisions of this Court, referred to hereinabove, the following propositions of law can be culled out:

(i) when the scheme of the acquisition is one, interim stay granted in respect of one pocket of land would operate even with respect to other pockets of land and in such a situation the authorities are justified in not proceeding with the acquisition proceedings and therefore the acquisition proceedings would not lapse;

(ii) interim order of stay granted in respect of one of the land owners would have a complete restraint for the authorities to proceed further;

(iii) when the stay has been granted in one matter and where the scheme was one, the authorities were justified to stay their hands;

(iv) the extended meaning of the words "stay of the action or proceedings under Section 11A of the Act" would mean that any interim effective order passed by the court which may come in the



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way of the authorities to proceed further;

(v) Explanation to Section 11A of the Act is in the widest possible terms and there is no warrant for limiting the action or proceedings, referred to in the explanation, to actions or proceedings preceding the making of the award under Section 11 of the Act and therefore the period of injunction obtained by the land holders staying the acquisition and authorities from taking possession of the land has to be excluded in computing the period of two years.

*7.8 In meeting out a complex situation, the conclusion which emerges is that if there is any stay over the action or proceeding by a Court of law, in one or the other matter arising from the selfsame acquisition proceedings in reference to Section 4 followed with Section 6 of the Act, the authorities are said to be justified in the given facts and circumstances to stay their hands and await the decision of the Court and **such a period during which there is a stay over the action or proceeding by a Court of law in a matter, that has to be excluded for all practical purposes, in computing the statutory period of two years in passing of an award under Section 11 of the Act.***

10. Further support is derived from a judgment made by the Hon'ble Supreme Court in case titled as '**Faizabad-Ayodhya Development Authority, Faizabad Versus Dr. Rajesh Kumar Pandey and Others; 2022 Live Law (SC) 504**, wherein, the relevant expostulations of law have been made in paragraphs No. 10.12 and 10.13, 17 (i) thereof, paras whereof are extracted hereinafter.

10.12 Thus, it is necessary to dwell into the reasons as to why no award has been made. As discussed aforesaid, if there is an order of restraint on the Collector or on the acquiring authority and as a result of which, the Collector or the Land Acquisition Officer is



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not in a position to make an award for reasons beyond his control and in compliance of the interim order granted by a court of law at the instance of the land owner or any other person who may have questioned the acquisition, the period during which the interim order has operated has to be reckoned and if on the date of enforcement of Act, 2013 i.e., 01.01.2014, no award has been made owing to the operation of such an interim order granted by a Court in favour of the land owner, then the provisions of the 2013, Act cannot straightaway be made applicable in the determination of the compensation. This is because, but for the operation of the interim order, the award could have been made under the provisions of the Act, 1894 until 31.12.2013 and then provisions of Act, 1894 would have applied as per clause (b) of sub-section 1 of Section 24. But on the other hand, owing to the operation of the interim order granted by a Court in favour of land owner, the award would not have been made as on 01.01.2014 when the Act, 2013 was enforced.

10.13 In our view in such a situation the acquiring authority cannot be burdened with the determination of compensation under the provisions of the Act, 2013. In other words, the land owner cannot, on the one hand, assail the acquisition and seek interim orders restraining the authorities from proceeding further in the acquisition, and on the other hand, contend that since no award has been made under Section 11 of Act, 1894 on 01.01.2014, the provisions of the Act, 2013 should be made applicable in determining the compensation.

17. In view of the above and for the reasons stated above, it is observed as under:-

(i) It is concluded and held that in a case where on the date of commencement of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, no award has been declared under



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Section 11 of the Act, 1894, due to the pendency of any proceedings and/or the interim stay granted by the Court, such landowners shall not be entitled to the compensation under Section 24(1) of the Act, 2013 and they shall be entitled to the compensation only under the Act, 1894.

11. The import of the above expostulations, is that, the non rendition of awards under the 'Act of 1894', when arises from stay orders becoming granted by the Courts of Law, thereby the launching of acquisition proceedings under the 'Act of 1894', thus would not become lapsed, rather the Collector concerned, may in terms of Section 11 of the 'Act of 1894' thus make an award.

12. Therefore, this Court concludes that in respect of those tracts of lands qua which no award has been passed, but owing to the operation of the apposite orders of stay, thus becoming granted by this Court, thereupons the Collector concerned, may in terms of Section 11 of the 'Act of 1894', thus proceed to make the awards.

13. Since in the writ petition bearing No.CWP-19011-2008, decided by this Court, a challenge was made to the provisions of Sections 17 and 29 of Punjab Regional and Town Planning and Development Act, 1995, on the ground, that there was a violation of Articles 243 ZD and 243 ZF of the Constitution of India. However, since through a decision passed thereons, the said challenge became negated. Moreover, when the reasons for rejecting the said challenge became grooved in the hereinafter extracted paragraphs, as carried in paragraphs 39 to 55 of the judgment supra, paragraphs whereof become extracted hereinafter, therefore, this Court finds no merit



in the reliefs comprised in clauses (a) and (b) of the writ relief supra.

“39. For the reasons to be assigned hereinafter, the notification as issued under Sections 17 and 29 of the Act of 1995, wheretos, a challenge is raised, inasmuch as, its breaching the provisions as incorporated in Article 243 ZD and Article 243 ZF of the Constitution of India, thus is declared to be valid.

40. The hereinabove underlined constitutional provisions, as becomes respectively embodied in Article 243 ZD and Article 243 ZF of the Constitution of India, to the considered mind of this Court, are supplementary to the respective creations of PUDA and/or GMADA, authorities whereof, become created in terms of the hereinabove underlined Sections 17 and 29 of the Act of 1995.

41. The striking reason for so concluding emanates, from the fact that the constitutional purpose for the creation of a District Planning Committee, as enshrined in Article 243 ZD, ensues from their being transition of panchayat lands on to the territorial domains of the municipal committees or on to the territorial domains of the municipal corporations. Since in terms of the revenue records, especially in terms of the wazib-ul-arz, appertaining to the relevant Gram Panchayats concerned, which merge onto the municipal areas or onto the corporation areas, there are certain vested rights in the villagers. Therefore, irrespective of their occurring transition of panchayat lands onto the municipal areas or onto the corporation areas, therebys such vested rights as become embedded in the revenue records rather are to be preserved. Therefore, for the preservations of such rights of the villagers, rather whose lands become transferred on to the territorial domains of the local self bodies concerned, that sub clause (3), as carried in Article 243 ZD, thus with the profound wisdom of the constitutional makers, thus finds its



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occurrence thereins.

42. The District Planning Committee(s), becomes created for reiteratedly ensuring that matters of common interest between the Panchayats and the Municipalities, including spatial planning, sharing of water and other physical and natural resources, besides the integrated development of infrastructure and environmental conservation, thus becomes furthered. The furtherance of the above constitutional purposes are well intended to maneuver towards their occurring sustainable development of the erstwhile panchayat areas, on theirs transiting on to the territorial domains of the local self governments, but yet without any rights vested in the villagers concerned, whose lands transit onto the municipal domains, rather suffering any derogation, as therebys, but naturally there would be disturbance towards the indefeasible rights, as become vested in the villagers concerned.

43. Since in the instant case, there is neither any factual matrix laid nor there is any evidence placed on record, that after the creation of PUDA/GMADA in terms of Sections 17 and 29 of the Act of 1995, there has been any impigning of the rights of the villagers concerned, as are to be bestowed upon them in terms of the relevant revenue records, therebys, the challenge to the instant notification, wherebys PUDA/GMADA have been created, is but a faulted challenge.

44. Even if both the factual matrix and prima facie evidence to support the said erected factual matrix, did surge forth, yet the said would be a disputed contentious fact and which was required to be not determined in writ proceedings but was required to be determined by the aggrieved drawing civil proceedings, before the learned civil Court of competent jurisdiction, wherebefore a claim for the rendition of a decree of



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mandatory injunction, besides a claim for the rendition of a decree of prohibitory injunction, thus becomes espoused against the errant concerned.

45. *Now, since a specially created statutory body(ies) respectively nomenclatured as PUDA/GMADA, came into existence in terms of Sections 17 and 29 of the Act of 1995. Moreover, when the creation of supra statutory bodies, but is for ensuring planned urbanization of the erstwhile Gram Sabha areas concerned, besides obviously is to ensure the makings of sustainable developments of the areas which fall onto the jurisdiction of the supra. Therefore and moreover, when the creation of PUDA/GMADA, is so done, thus in terms of the statutory empowerment vested in the State Government, through engraftment(s) therein of Sections 17 and 29 in the Act of 1995. Resultantly, when therebys there is a requirement for the creation of zoning regulations, thus under the appositely drawn interim development plan(s), as becomes prepared under the Act of 1995, wherebys but the rights of the erstwhile villagers rather do not become disturbed, inasmuch as, the PUDA/GMADA proceeding to create housing colonies in those locales which are not reserved for the creation of a housing colony thereons.*

46. *Since the supra fact is not either averred nor is supported by any prima facie evidence, therebys, the respective creation of PUDA/GMADA respectively in terms of Sections 17 and 29 of the Act of 1995, is deemed to be made, within the contours of the zoning regulations, as become prescribed in the interim developmental plan, as becomes drawn by the authority concerned, in terms of the relevant statutory provisions as borne in the Act of 1995.*

47. *Therefore, the allotment of the sites to the GMADA, for creation thereunders of housing colonies, wherein, the present*



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industrial units are set up thereins, are not contrary to the interim developmental plan as drawn in terms of the provisions (supra), as carried in the Act of 1995, but the said allotments are validly made allotments to the supra bodies. As such, the present petitioner(s) do not become entitled to become endowed with any right to seek any claim for regularization of their industrial units as exist over the relevant zone, as becomes assigned for the creation thereovers of a zoning colony nor also the vires of the provisions of Sections 17 and 29 as incorporated in the Act of 1995, are ultra vires the Constitution of India.

48. Though a challenge is made to the vires of Section 29 of the 1995 Act, wherethroughs, GMADA has been created through the impugned notification. However, the said challenge is unveiled on the ground, that the provisions supra are ultra vires Article 243 ZD and Article 243 ZF of the Constitution of India. Since for supra stated reasons, the workability of the supra constitutional provisions, are limited, to the extent detailed hereinabove besides when the said provisions have a purposeful intent, rather for preserving the indefeasible rights vested in the erstwhile villagers whose lands transit onto the Municipal Areas concerned.

49. Moreover, when as stated (supra) there is neither any factual matrix laid nor when any prima facie evidence has come to the fore front, to bring home any firm conclusion from this Court that there has been any ill intrusion, through the creation of PUDA/GMADA in terms of Sections 17 and 29 of the Act of 1995, onto the indefeasible rights as became vested in the villagers whose lands transit onto the municipal areas concerned. Therefore, in the wake of omission of raising of supra pleading nor when no evidence to support the same becomes adduced on record, therebys, when the supra constitutional provisions are



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complementary to the provisions as engrafted in Sections 17 and Section 29 of the Act of 1995, thereby the latter statutory provisions but cannot be declared to be unconstitutional, merely on the ground that they are in purported conflict with the constitutional provisions respectively borne in Article 243 ZD and in Article 243 ZF of the Constitution of India.

50. In addition, since this Court has made the hereinabove inference, that even if there was some material placed on record, before this Court, thus making speakings to the extent, that there has been through the makings of the impugned notification, thus any ill intrusion qua the indefeasible rights of the villagers, on their lands transiting on to the areas of municipalities or municipal corporations concerned, qua yet this Court becoming not empowered to decide the said but naturally contentious fact. Resultantly reiteratedly, when this Court has hereinabove declared that the remedy, if any, to the aggrieved from any ill intrusion being made on to his indefeasible right but naturally on his lands transiting onto the municipal areas concerned, or the corporation areas concerned, but would be redressable through his recouring civil remedy before the civil Court concerned.

51. Therefore also, reiteratedly, the arguments (supra) raised by the counsel for the petitioner(s) are negated.

52. Now the purpose of Article 243 ZF is also complementary besides is supportive to the provisions as embodied in clause (3), as carried in Article 243 ZD, provisions whereof are declared to be working with a well constitutional intent, to ensure the preservation of rights of villagers, even when their lands become transferred to the territories of local self Governments concerned. Therefore, when Article 243 ZF merely opens with a non obstante clause whereby, any provision of any law relating to municipalities, which is in consistent with the



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provisions of this Act, is further declared to be holding force until it is amended or repealed by a competent legislature or a competent authority. Therefore, the expressions 'notwithstanding anything in this Part, any provision of any law relating to municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, and which is in consistent with the provisions of this Act, and, to which continuance of operation is bestowed, until amended or repealed, by a competent legislature or by any competent authority, thus are naturally connotative of the clear fact, that such laws are the ones which are respectively embodied in the Punjab Village Common Lands, 1961 (hereinafter for short called as the Act of 1961), and, in the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter for short called as the Consolidation Act of 1948).

53. Since in terms of the supra enactments, there is preservation of some rights in the villagers whose lands get transited onto the municipal areas, therebys, when the supra expressions confer continuity of force to the enactments supra, irrespective of the happening of transfers of lands of villagers concerned, onto the territories of either municipalities or municipal corporations concerned. Resultantly, the vires of the impugned notification, cannot be well challenged on the ground, that it purportedly militates both against the supra enactments i.e. the Act of 1961 and the Consolidation Act of 1948, especially when as stated supra the remedy to the aggrieved was to raise a civil suit besides when the vires of the supra enactments rather remains unsuccessfully challenged.

54. Now this Court, is not required to be further detained, for determining whether qua the enactments (supra), rather continuity of legislative clout, has been preserved, besides



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whether the supra underlined expressions are required to be invalidated. Therefore, when as stated (supra) both the provisions as carried in the Act of 1995 and the constitutional provisions as carried in sub clause (3) of Article 243 ZD and Article 243 ZF, rather are complementary to each other and but work towards preserving the rights of the villagers, even when their lands get transferred on to the municipalities or municipal corporations concerned. In sequel therebys, the supra reliefs for all above stated reasons are to be denied to the petitioner(s).

55. Having said so that though there is no conflict inter-se the provisions of the Act of 1995, whereunders GMADA has been created, with Article 243 ZD and Article 243 ZF, besides when the creation of GMADA, as has been done through the making of the impugned notification, through the exercise of jurisdiction vested in the competent authority, in terms of Section 29 of the Act of 1995, but is required to be declared to be not suffering from any illegality.”

Final order of this Court.

14. In aftermath, this Court finds no merit in the writ petition(s), the same being completely frivolous, thus is required to be dismissed with costs. Therefore, the same is dismissed with costs of Rs.50,000/- vis-a-vis each of the petitioners. The said costs be forthwith deposited by the petitioners with the Treasurer of the **“Punjab and Haryana High Court Employees Welfare Association”**.

15. The impugned notification(s) are maintained and affirmed.

16. Moreover, the acquiring authority may proceed to make lawful awards both in respect of vacant lands besides in respect of the acquired construction(s) but bearing in mind as to whether such construction(s) were



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raised post or prior to the making of a notification under Section 4 of the 'Act of 1894'.

17. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

February 17, 2025

Varinder

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No