

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1447 OF 2018
(Arising out of SLP(C)No.15302/2014)

SURINDER KUMAR & ORS. ... APPELLANT(S)

VS.

THE STATE OF HARYANA & ORS. ... RESPONDENT(S)

WITH

C.A.NO.1450/2018 @ SLP(C)NO.22810/2015

C.A.NO.1448/2018 @ SLP(C)NO.22807/2015

C.A.NO.1449/2018 @ SLP(C)NO.22809/2015

C.A.NO.1452/2018 @ SLP(C)NO.23161/2016

C.A.NO.1451/2018 @ SLP(C)NO.10499/2016

AND

SLP(C)NOS.30566/2015 & 30568/2015

O R D E R

C.A.NO.1447/2018 @ SLP(C)NO.15302/2014, C.A.NO.1450/2018 @ SLP(C)NO.22810/2015, C.A.NO.1448/2018 @ SLP(C)NO.22807/2015, C.A.NO.1449/2018 @ SLP(C)NO.22809/2015, C.A.NO.1452/2018 @ SLP(C)NO.23161/2016 AND C.A.NO.1451/2018 @ SLP(C)NO.10499/2016 :

1. Heard learned counsel for the parties.
2. Leave granted.

3. The appeals have been preferred by the State as well as by the land-owners, assailing the judgment and order dated 31.10.2013 passed in the writ petitions. In these cases, the land was acquired by issuance of a Notification under Section 4 of the Land Acquisition Act, 1894, in the year 1997. Section 6 declaration was issued on 29.8.1998 and the Award was passed on 28.8.2000. The writ petitions were filed in the year 2000. The High Court had issued the following directions, with respect to the release of the land that was acquired :

“(24)(i) the respondents are directed to release all structures in existence as on date, irrespective of the class of construction, from acquisition along with proportionate/reasonable open area.

(ii) where the total acquired land is upto two kanal and has been partly constructed, such vacant land/structure shall be released to the extent of constructed portion and equivalent/reasonable open space and/or one kanal area whichever is less. The size of released area shall depend upon the surroundings and possible utility of the acquired land for a *bona fide* public purpose.

(iii) where the acquired land is more than two kanals, the affected owner shall be entitled to the release of land measuring one kanal or more depending upon the total constructed area. In other onwards, even if the constructed area is less than one kanal, such owner shall be entitled to the release of at least one kanal land including the constructed area. The acquisition qua the remaining vacant land of such owner is, however, upheld though conditionally.

(iv) the respondents are directed to conduct a fresh survey and carry out re-demarcation of the entire acquired land for the compliance of directions No.(i) to (iii) above. The needful

shall be done within two months from the date of receipt of a certified copy of this order.

(v) the respondents are further directed to prepare a Development Plan and decide the utility of the acquired land [other than the land covered under direction Nos.(i) to (iv) for a *bona fide* public purpose/public utility. The exercise shall be completed within three months from the date of completion of fresh survey/redemarcation.

(vi) after earmarking the acquired land for one or the other public purpose, the un-utilised land, if any, shall also be released in favour of the owners needed for future expansion of the public utilities.

(vii) the public purposes/utilities for which the acquired land is permitted to be utilized shall not be meant to serve and cater to the needs of residents of the licensed colony developed by the Builder, namely, M/s. Ansal Builders Pvt. Ltd. Only. These facilities shall be provided to the residents/habitants of village Chauma or other nearby villages or urban areas as well.

(viii) the public utilities shall be prioritized with due preference to Government-run hospital(s)/health care centre(s), school(s), roads, drinking water supply and sewerage etc.

(ix) if any additional land is required for the purpose of construction or development of any utility for the residents of the locality of the private developer, such land shall be made available by the builder, namely, M/s. Ansal Builders Pvt.Ltd. Only.

(ix) the petitioner(s) or other owners whose structures along with open land have been released or ordered to be released shall be required to deposit the statutory charges and get their building plans sanctioned from the 'prescribed authorities' and then only their respective properties shall be regularized. They shall not be permitted to use the released properties for any unauthorized purpose in violation of the zoning of the urban area."

5. It was urged by learned counsel appearing on behalf of the State that as per the policy decision was required to be taken, the High Court had exceeded its jurisdiction while acting as against the policy and laying down policy which was not permissible.

6. After hearing learned counsel for the parties at length, we are of the opinion that the matters are such, in which certain areas have already been released and it was argued on the basis of photographs that a large number of constructions have already come up in the area. It would be in the fitness of the case, that the competent authority consider the cases sympathetically, after hearing the land-owners and take a decision objectively in terms of the policy with respect to release of the land, within a period of three months from today. Till then, status quo as on today, shall be maintained by the parties. The land owners are at liberty to file their representations within three weeks from today.

7. The directions passed in the impugned order are hereby set aside. The decision is to be taken by the competent authority without being influenced by our setting aside the directions passed by the High Court. With the aforesaid directions, the impugned order stands modified and the appeals are partly allowed. Pending application, if any, stands disposed of.

SLP(C)NOS.30566/2015 & 30568/2015 :

1. Mr. P.P. Malhotra, learned senior counsel appearing on behalf of the petitioners, seeks leave to withdraw the instant petitions.

2. The special leave petitions are dismissed as withdrawn along with all pending applications.

.....J.
[ARUN MISHRA]

.....J.
[AMITAVA ROY]

New Delhi;
31st January, 2018.

ITEM NO.7

COURT NO.10

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).15302/2014

(Arising out of impugned final judgment and order dated 31-10-2013 in CWP No.9321/2000 passed by the High Court Of Punjab & Haryana At Chandigarh)

SURINDER KUMAR & ORS.

Petitioner(s)

VERSUS

THE STATE OF HARYANA & ORS.

Respondent(s)

WITH

SLP(C) No. 22810/2015 (IV-B)

SLP(C) No. 22807/2015 (IV-B)

SLP(C) No. 22809/2015 (IV-B)

SLP(C) No. 30566/2015 (IV-B)

SLP(C) No. 30568/2015 (IV-B)

SLP(C) No. 10499/2016 (IV-B)

SLP(C) No. 23161/2016 (IV-B)-(With appln. for permission to file addl. documents)

Date : 31-01-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s)

SLP(C)Nos.30566

& 30568 & resp.

in SLP© 22807

Mr. P.P. Malhotra, Sr. Adv.

Mr. Yasir Raut, Adv.

Mr. Shailender Sharma, Adv.

Mr. Gaurav Sharma, AOR

For Respondent(s)

State

Mr. B.R. Mahajan, Adv. Gen.

Mr. Arun Bhardwaj, AAG

Mr. Anish Kumar Gupta, AAG

Mr. Chandra Shekhar, Adv.

Mr. Abhinash, Adv.

Mr. Ronak Karanpuria, Adv.

Mr. Gauraan Bhardwaj, Adv.

Dr. Monika Gusain, AOR

Mr. Ashish Pandey, Adv.

Mr. R.K. Rajwanshi, Adv.

Mr. Sanjay Kumar Visen, AOR

Mr. Vishwa Pal Singh, AOR

SLP(C)23161 Ms. Meenakshi Arora, Sr. Adv.
Mr. Atul Kumar, Adv.
For Mr. S.K. Verma, AOR

No.22810 Mr. Manjeet Singh, Sr. Adv.
Mr. Tarjit Sing, Adv.
Mr. Suhaas Ratna Joshi, AOR

SLP(C)Nos.30566 & 30568 Mr. Anugrah Niraj Ekka, Adv.
Mr. Mohit Paul, AOR

SLP(C)22809, 30568, 22807 & 10499 Mr. Rajeev Maheshwaranand Roy, AOR
Mr. P. Srinivasan, Adv.

Mr. Shree Pal Singh, AOR
Dr. Sushil Balwada, AOR

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

C.A.NO.1447/2018 @ SLP(C)NO.15302/2014, C.A.NO.1450/2018 @ SLP(C)NO.22810/2015, C.A.NO.1448/2018 @ SLP(C)NO.22807/2015, C.A.NO.1449/2018 @ SLP(C)NO.22809/2015, C.A.NO.1452/2018 @ SLP(C)NO.23161/2016 AND C.A.NO.1451/2018 @ SLP(C)NO.10499/2016 :

Leave granted.

The appeals are partly allowed in terms of the signed order.

SLP(C)NOS.30566/2015 & 30568/2015 :

The special leave petitions are dismissed as withdrawn in terms of the signed order.

(Sarita Purohit)
Court master

(Jagdish Chander)
Branch Officer

(Signed order is placed on the file)