

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

**Date of decision:10.12.2015**

1. **CWP No.2602 of 2007(O&M)**  
**Market Committee, Barnala** **....Petitioner**  
**VERSUS**  
**State of Punjab and others** **.....Respondents**  
**\*\*\*\*\***
2. **CWP No.2809 of 2007(O&M)**  
**Punjab State Agricultural Marketing Board** **....Petitioner**  
**VERSUS**  
**State of Punjab and others** **.....Respondents**  
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**CORAM:** **HON'BLE MR. JUSTICE HEMANT GUPTA**  
**HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: Mr. Sameer Sachdeva, Advocate for the petitioner.  
  
Mr. Manoj Bajaj, Additional A.G. Punjab for respondents  
No.1 and 2.  
  
Mr. I.S. Ratta, Advocate for respondent No.3.

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**HEMANT GUPTA, J. (Oral)**

This order shall dispose of abovementioned two writ petitions bearing CWP No.2602 of 2007 filed by Market Committee, Barnala and CWP No.2809 of 2007 filed by Punjab State Agricultural Marketing Board raising identical questions of law and facts in respect of acquisition of land vide notifications dated 05.03.2004 and 24.02.2005 under Section 36 and 42 of the Punjab Town Improvement Act, 1922 (for short 'the Act'),

respectively. The challenge is also to the notice dated 03.11.2006 issued to the petitioners under Section 9 of the Land Acquisition Act, 1894.

For the facility of reference the facts are being taken from CWP No.2602 of 2007. The petitioner is a body corporate in terms of Section 18 of the Punjab Agricultural Produce Markets Act, 1961. The land in question measuring 7 kanals 6 marlas was earlier acquired by the then Pepsu Government vide notification dated 20.07.1956. After acquisition, the land acquired was transferred to the Market Committee. As on now, it is admitted by learned counsel for the petitioner that it is the Market Committee who is owner of the land and such land is being utilized for its purpose.

The grievance of the petitioner is that since the land was acquired for a public purpose by the then State Government, the said land cannot be subject matter of acquisition again by Improvement Trust as the land already vests in a public authority.

The stand of respondent No.3-Improvement Trust is that with a view to develop a Market Complex at Barnala, the Site Selection Committee found the land in question measuring 7 kanals 6 marlas as suitable. It is further pointed out that as per the revenue record, the owner is Samadh Bibi Pradhan and mutation No.1768 stands sanctioned in favour of his disciple Parshotam Dass. It is also pointed out that a Development Scheme was resolved by the Improvement Trust vide resolution No.257 dated 24.12.2001 and thereafter notification under Section 36 of the Act was issued but the same lapsed as the Trust was dissolved. It is thereafter a fresh notification under Section 36 of the Act was published after

Development Scheme was resolved again vide resolution No.360 dated 30.12.2003.

Learned counsel for the petitioner relies upon Jamabandi (Annexure P-2) to contend that the petitioner is recorded as owner of the land. The copy of the said Jamabandi was supplied on 25.09.2006 whereas as per the Jamabandi (Annexure P-11) produced by the petitioner, the Samadh Bibi Pradhan under the management of Ramji Dass disciple of said Samadh is recorded as owner in the Jamabandi for the year 1999-2000. In fact, the said document supports the assertion of the respondents that it was the Samadh who was recorded as owner and not the Market Committee.

In respect of ownership of the Market Committee, the stand of the respondents is that up to Jamabandi for the year 1999-2000, Samadh Bibi Pradhan is the owner and the Market Committee is not recorded as owner. It is also pointed out that there was litigation between Samadh and Market Committee which was decided in favour of the Market Committee. Consequently, the Market Committee is reflected as owner in the Jamabandi recorded in the year 2006.

We have heard learned counsel for the parties and find no merit in the present writ petition. The notifications under Sections 36 and 42 of the Act were published on 05.03.2004 and 24.02.2005, respectively, prior to sanction of the mutation in favour of the Market Committee as per the stand of the Trust. Thus on the date of publication of the notification, a private institution was recorded as owner. Due to subsequent events, the Market Committee came to be recorded as owner. It is for the Market Committee not to submit to acquisition in terms of the notification issued

under the Act and instead surrender land in favour of the Trust but the notification cannot be permitted to be challenged on the ground that the State is owner on the date of publication of the notification, therefore, such land cannot be subject matter of acquisition. The land stand transferred to the Market Committee, which is a separate juristic entity. Such land could be acquired by the State as well for another public purpose. The State Government considered it expedient to acquire the land for a public purpose without going into the question of title between the petitioner and Samadh.

In view of the above, the present writ petitions are dismissed.

**(HEMANT GUPTA)**  
**JUDGE**

**DECEMBER 10, 2015**  
'D. Gulati'

**(RAJ RAHUL GARG)**  
**JUDGE**