

In the High Court of Punjab and Haryana at Chandigarh

CWP No.1333 of 2012

Date of decision: September 02, 2015

Sushila Dahiya

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
 HON'BLE MS. JUSTICE RAJ RAHUL GARG**

Present: Mr. S.P. Khatri, Advocate

for the petitioner.

Mr. Amar Vivek, Additional Advocate General, Haryana.

Mr. Lokesh Sinhal, Advocate

for HSIDC.

HEMANT GUPTA, J. (Oral)

The challenge in the present writ petition is the notifications dated 09.06.2006 and 11.01.2007 published under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act') respectively. The land of the petitioner was part of 878 acres of land intended to acquire for public purpose i.e. for the development of Industrial Model Township, Rohtak. The award was announced on 30.04.2007 and the amount of compensation disbursed to the petitioner. The challenge is also to the notifications dated 05.02.2008 and 06.06.2008 published Sections 4 and 6 respectively by invoking urgency

clause under Sections 17 of the Act. The land measuring 3 Acres 16 Marlas including 6 marla of land of the petitioner which was inadvertently left out from earlier acquisition was intended to be acquired. The Award in this respect was announced on 15.05.2007.

The petitioner is owner of 43 kanals 11 marlas of land situated in the revenue estate of Village Kheri Sadh, Tehsil and District Rohtak. The grievance of the petitioner is that 42 acres of land has been utilized for a Memorial in the remembrance of Chaudhary Ranbir Singh including Tomb of father of the then Chief Minister, Haryana. It is contended that it is not for public purpose but the land is being used for Sanvidhan Sathal by private members in the name of Chaudhary Ranbir Singh. The petitioner has attached the photographs of the site in question, which shows a well developed park has been established in the 42 acres of land.

In the written statement, It has been inter alia averred that the petitioner has tried to misrepresent the issue of Sanvidhan Sathal. It is pointed out that

has been set apart out of the acquired land. Such land cannot be used for any other purposes other than those permissible under the law. The land in question forms part of the statutory green belt and is a town level park facility. It is also pointed out that Chaudhary Ranbir Singh belonged to Rohtak, joined the Gandhian movement in 1930s to contribute towards India's freedom struggle. He was confined to jail on number of occasions in relation of freedom struggle. He was the lone member of the Constituent Assembly of India from Haryana. He was also the member of the Provisional Parliament and served from 1950-52. It is further pleaded that an application was given by All India Freedom Fighters Organization on 21.05.2009. On such application, the land measuring 2.5 acres has been allotted at a concessional rate of Rs.50 lacs per acre on 28.07.2009. The purpose of allotment of plot is construction of a Museum in the memory of late Chaudhary Ranbir Singh. The said organization has deposited the full allotment price of Rs.1.25 crore with the HSIIDC and construction of the building is at advanced stage of completion as per letter of allotment.

We have heard the learned counsel for the parties. We find that utilization of land is for the purpose of public park and to maintain green belt. It is part of requirement to provide green area to the inhabitants. It is necessary for providing lungs to breathe fresh air. Such green area is environmental necessity for any urban and/or industrial development.

Therefore, we do not find any illegality to utilize the land for a park named in the memory of a freedom fighter, a member of the Constituent Assembly.

However, in respect of allotment of land of 2.5 acres to All India Freedom Fighters Organization at a concessional rate of Rs.50 lacs per acre, prima facie, we find that allotment of a plot of land at a concessional rate, which is not part of the stated public purpose, may not meet the test of acquisition. Since the said organization is not party to the writ petition, therefore, we direct the State Government to take decision as to whether said organization can be permitted to utilize the land acquired for

Government shall also decide if the museum is to be set up or as to whether a private trust can be allowed to run the museum over land acquired for a public purpose or that the State Government alone would manage such museum.

Consequently, we dismiss the writ petition qua use of land for a public park named after a freedom fighter. However, in respect of land measuring 2.5 acres, we dispose of the present writ petition with direction to the State Government to decide and take appropriate decision in accordance with law.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

September 02, 2015

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