

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

CWP No.11682 of 2013

Date of decision:11.9.2015

Bajrang Lal and another

....Petitioners

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Amit Jain, Advocate for the petitioners.

Ms. Palika Monga, DAG, Haryana for respondent Nos.1 and 3.

None for respondent No.2.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the notifications dated 28.08.2012 and 01.03.2013 published under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act'). Vide the aforesaid notification, the land measuring 0.094 acres i.e. 3 biswas was made subject matter of acquisition.

Earlier, the State issued a notification under Section 4 of the Act on 30.10.1992 followed by a notification dated 28.10.1993 under Section 6 of the Act. In respect of the said acquisition proceedings, a writ petition i.e. CWP No.8147 of 1997 was filed by one Madan Lal Sharma. The said writ petition was allowed on the ground that the land owned by Chander Shekhar has been released from acquisition. Finding that the

action of the respondents is discriminatory, the writ petition was allowed. The land of Madan Lal Sharma, Chander Shekhar as well as of the petitioners falls in the area said to be required for development of green belt.

The land of the petitioners was not subject matter of the earlier notification, though the land of other land-owners falling in the same area was made subject matter of acquisition. Therefore, in respect of the land of the petitioners, notifications dated 28.08.2012 and 01.03.2013 were issued.

Learned counsel for the petitioners has disputed the acquisition proceedings on two grounds. Firstly, the objections filed by the petitioners under Section 5-A of the Act have not been considered by the Land Acquisition Collector. It was argued that, in fact, Joint Site Inspection Committee has inspected the site on 07.10.1993 which is before the publication of the notification under Section 6 of the Act in the earlier acquisition. Secondly, it is also argued that action of the respondents in acquiring the land of the petitioners is arbitrary and discriminatory as the land of the other land-owners in the same green belt area has been left out from acquisition.

Ms. Palika Monga, DAG, Haryana, has produced the record of consideration of objections which shows that a Joint Site Inspection Committee inspected the site on 28.05.2012 and gave the following report:-

“As per demarcation given by DTP Mahendergarh at Narnual, a draft notification u/s 4 of L.A. Act bearing khasra No.1491/3 (0.094 acres)

falling in the revenue estate of Village Narnaul has been prepared by LAC. Land proposed for acquisition falls in the green belt along Narnaul Mahendergarh road in Sector 1 Narnaul and had inadvertently been left un-acquired. Since the land is lying vacant at site. It is recommended to be notified under section 4 of L.A. Act, after seeking approval of the proposal from the Govt. Three copies of draft notification u/s 4, a copy of development plan, part layout plan cum demarcation plan each of Narnaul showing the land proposed to be acquired are sent along with for further action.”

The Land Acquisition Collector also recommended the acquisition of land of the petitioner vide report which has been appended with the written statement as Annexure R-1. The Joint Site Inspection Committee report of the year 1993 has been attached with another affidavit of Sh. R.K. Singh to rebut the argument of discrimination. The Joint Inspection Committee has separately inspected the site and recommended acquisition.

The record produced shows that the objections of the petitioner have been considered by Land Acquisition Collector. He recommended the acquisition of the vacant land of the petitioners. A Joint Site Inspection Committee has also inspected the site of the land of the petitioners on 28.05.2012 and recommended acquisition. Thus, we find factually, the objections raised by the petitioners have been considered in accordance with law.

In respect of argument of discrimination in the acquisition of land of the petitioners while leaving the land of other land-owners, it is pointed out by Ms. Monga that land of Chander Shekhar was not been made part of notification under Section 6 of the Act, under mistaken belief.

As a matter of fact, a Joint Site Inspection Committee recommended inclusion of land of Chander Shekhar while considering the objections filed by him, but his land was still not included in the notification published under Section 6 of the Act. The factual position could not be explained by the State in the written statement filed by Madan Lal Sharma. Ms. Monga pointed out that an inquiry is being conducted as to why the fact that the correct facts relating to the land of Chander Shekhar could not be brought to the notice of the Court.

A perusal of the site plan (Annexure P-11) shows that the land of Chander Shekhar, Madan Lal Sharma fall on the other side of 14 feet wide *rasta*. Therefore, even if land of Madan Lal Sharma and Chander Shekhar is acquired, the green belt can very well be carved out in the remaining land on the other side of *rasta* including the land of the petitioners. It is also pointed out that there are constructions over the land owned by Madan Lal Sharma whereas the land owned by the petitioners is a vacant land.

In view of the said fact, we do not find any merit in the argument that the State Government has acted in discriminatory manner.

Consequently, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 11, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE