

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

CWP No.15515 of 2012(O&M)
Date of decision:21.4.2015

Hukum Chand and others

....Petitioners

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vinod S. Bhardwaj, Advocate for the petitioners.

Mr. Vishal Garg, Additional Advocate General, Haryana
for respondents No.1, 3 and 4.

Mr. Kamal Sehgal, Advocate for respondent No.2.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to a declaration published under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') on 25.11.2011 in pursuance of a notification intending to acquire the land under Section 4 of the Act on 17.09.2004, inter alia, on the ground that substantial land, which is subject matter of notification under Section 4 of the Act, has not been declared as required for a public purpose while publishing the declaration under Section 6 of the Act. Therefore, the public purpose as notified does not survive. It is also argued that the constructed portion of the petitioners prior to publication of notification under Section 4 of the Act has not been released from acquisition.

On the other hand, Mr. Kamal Sehgal, pointed out that 4 kanal 9 marla of land over which the construction was raised by the petitioners stands released on the basis of averment made in the

written statement filed on 28.05.2013. But such assertion has not been controverted by the petitioners thereafter. Therefore, the argument that constructed portion has not been released from acquisition is not made out.

It is also pointed out that a public purpose for the acquisition is for setting up of Industrial Model Township to be planned and developed as an integrated complex for industrial, institutional, commercial, recreational and other public utilities and that the land which is subject matter of declaration under Section 6 of the Act does not satisfy the public purpose for which notification under Section 4 of the Act was published as against over 900 acres intended to be acquired only land measuring 21 Acres (133 kanal 6 marla) approximately has been declared for the purpose of acquisition.

Though, the notification under Section 4 of the Act was initially published by invoking the urgency provisions under Section 17 of the Act on 17.09.2004 in respect of land measuring 956 acres 5 kanal and 18 marla but the declaration under Section 17 of the Act was set aside by this Court but giving liberty to the State to proceed in accordance with law after upholding the notification under Section 4 of the Act. It is, thereafter, the impugned notification under Section 6 of the Act has been issued on 25.11.2011 whereby the entire land of the petitioners after excluding land measuring 4 kanal 9 marla forms part of land measuring 21 acres 6 kanal and 6 marla (133 kanal 6 marla).

It is pointed out that out of 956 acres of land intended to be acquired, acquisition in respect of 610 acres was upheld by this

Court whereas the writ petitions pertaining to 335 acres were allowed. The land now notified forms part of land measuring 21 acres 6 kanal and 6 marla vide the impugned notification.

Mr. Sehgal states that in respect of 610 acres, declaration under Section 6 of the Act was published on 27.10.2004 and thereafter award was announced on 09.03.2006 and the compensation deposited. Therefore, it is not the land which is subject matter of declaration under Section 6 of the Act on 25.11.2011 also is to be considered but the land measuring 610 acres is also part of the land acquired for public purpose in respect of which acquisition stands upheld.

Since, large chunk of the land is required for a public purpose, therefore, the argument that land in small packets cannot be used for a public purpose does not stand.

In view thereof, we do not find any merit in the argument raised by learned counsel for the petitioner.

The present writ petition is, thus, dismissed.

(HEMANT GUPTA)
JUDGE

APRIL 21, 2015
‘D. Gulati’

(LISA GILL)
JUDGE