

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

CWP No.10116 of 2014(O&M)

Date of decision:21.9.2015

Jagtar Singh and others

....Petitioners

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. J.S. Chandail, Advocate for the petitioners.

Mr. Manoj Bajaj, Additional A.G. Punjab
for respondents.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the notification dated 06.07.2012 published under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') and the award dated 23.12.2013.

The primary challenge to the land acquisition proceedings is on the ground that the petitioners were not given opportunity of hearing to support the objections filed and that after this Court passed an order in an earlier writ petition filed by the petitioners, the respondents have hurriedly proceeded to announce award. Thus, the acquisition proceedings violate the mandatory provisions of law and the principals of natural justice. It is also argued that the proposed road is planned to accommodate a Gurudwara Sahib which is not a public purpose.

On the other hand, Mr. Manoj Bajaj, learned counsel for the State, submits that the petitioners have not disclosed the fact that before they approached this Court in earlier writ petition, Section 6 notification was already published on 05.07.2013 and that too after opportunity of hearing was granted to the 19 objectors. The petitioners were not the one who submitted the objections within time after publication of the notification under Section 4 of the Act. The objections were submitted by the petitioners after the orders were passed by this Court and that the Land Acquisition Collector granted opportunity of hearing to the petitioners and found no merit in the objections raised by the petitioners in its report dated 28.01.2014. It is also pointed out that the proposed road is to de-congest traffic as a school with 2100 children is on the existing road whereas the parking is on the other side of the road which endangers the life of the children. It is also contended that there is a adjoining Gurudwara, therefore, there is lot of traffic. To de-congest the traffic on the road already in existence, it has been decided to divert the traffic for the safety of children and other users.

We have heard learned counsel for the parties and find no merit in the present writ petition.

In the earlier writ petition, the petitioners have given an impression that notification under Section 6 of the Act was not published, whereas the possession is sought to be taken. But as a matter of fact notification under Section 6 of the Act was issued on 05.07.2013 i.e. even before the filing of the writ petition. As a matter of fact, the period for publication of the notification under Section 6 of the Act was to expire on

05.07.2013 and the notification was published on the said date itself. The Court proceeded on the assumption that notification under Section 6 of the Act has not been issued and the petitioners are sought to be dispossessed. This Court passed an order on 11.12.2013 directing the Land Acquisition Collector to consider and decide the objections. The earlier objections were considered by the Land Acquisition Collector while submitting report on 06.09.2012, a copy of which has been attached as Annexure R-3/7. After the objections were filed, a report has been again submitted by the Land Acquisition Collector on 28.01.2014 (Annexure R-3/12). The Land Acquisition Collector noticed the following facts:-

“The objection was also raised by the land owners that there will be loss to new residential houses and shops constructed adjoining to the existing road. But they failed to point out the particular loss. Whereas by the construction of this bye-pass the problem of every day traffic being faced by these houses/shop will be solved and they will be benefited. Their objections that there will be loss of lacs-crores on account of construction of new houses and shops is also found baseless because the government has not passed any order for the construction of any new house/shop. These houses/shops are to be constructed by the owners as per their convenience. The objection is being raised by the objector that there is no benefit by the construction of this Bye-pas because there is no traffic on this road and this is being done only to benefit the Gurudwara. The residents of these villages are very poor. Therefore, the action of acquiring the land is not correct. From the date when the bridge is constructed over the Satluj river at Jalandhar-Nakodar-Jagraon road, the traffic has been increased. At present the number of vehicles have been increasing rapidly therefore, it is very necessary to construct bye-passes in the villages/colonies when there is huge residential area. The problem of traffic will be resolved by with the construction of this Bye-pass. As the daily traffic was stopping on the narrow road for to pay spiritual sentiments at Gurudwara Sahib, that will now stop directly at lower place by crossing the said bye-pass. By doing so, the traffic will be divided in two parts. The existing road is not being closed on account of the construction of bye-pass. Nowadays, every resident of the

city/colony wants that traffic problem be solved. The traffic is increasing day by day. Therefore, in view of the above discussion, the objections raised by some of the petitioners/land owners/occupiers, are rejected as there is no valid ground/merit is found therein and this by-pass is being constructed for the welfare of the public. In this regard, all the petitioners/land owners/ occupiers were informed at this spot.”

Since the petitioners have not filed objections before the publication of the notification under Section 6 of the Act, the petitioners could not make a grievance that objections were not heard but still the objections filed by the petitioners have been considered by the Land Acquisition Collector vide communication (Annexure R-3/12) in respect of requirement of the land for the public purpose.

The land is being acquired to de-congest the traffic which is also necessary for the safety of children and other users of the area. It is a public purpose. Therefore, the objection of the petitioners that there is no public purpose is not tenable.

Consequently, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 21, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE