

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

**CWP No.10343 of 2014
Date of decision: 21.5.2015**

Mahesh Kumar and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Virender Kumar, Advocate for the petitioners.

Ms. Palika Monga, DAG, Haryana.

Ajay Kumar Mittal,J.

1. The petitioners prays for quashing the impugned award dated 10.5.2013, Annexure P.7 passed by respondent No.3 to the extent of acquisition of land comprised in Rectangle No.27, Killa No.6/2(1-0) situated in Village Malpura, Hadbast No.295, District Rewari vide which land measuring 1 kanal belonging to them had been wrongly included therein though it had already been released by the Government vide

notification under Section 6 of the Land Acquisition Act, 1894 (in short, “the Act”) dated 12.5.2011, Annexure P.6 as their residential houses had been constructed thereon.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Shri Jagram son of Mukhram son of Nanga, resident of Kapriwas was recorded as owner in possession of the agricultural land measuring 36 kanals 4 marlas comprised in Khewat No.151/135, Khatoni No.159, Rectangle No.27, Killa Nos.3 (8-0), 4(8-0), 6/2(4-4), 7(8-0), 8(8-0) situated in Village Malpura, District Rewari as per Jamabandi for the year 2004-05, Annexure P.1. The said Jagram executed a registered Will dated 15.7.1988 in favour of the petitioners. He died on 28.7.2006 and after his death both the petitioners became the owners of the said property and mutation was sanctioned on 11.9.2006, Annexure P.2 on the basis of registered will. Both the petitioners became owners in possession of the land measuring 36 kanals 4 marlas in equal shares. Vide notification under section 4 of the Act dated 13.5.2010, Annexure P.3, the Government acquired the entire land of the petitioners. The petitioners filed objections under Section 5A of the Act before the Land Acquisition Collector stating that they had already constructed residential houses on the said land i.e. Rectangle No.27 Killa No.6/2(4-4) and they were living there alongwith their families. They had electricity connections etc. After verifying the construction of the houses of the petitioners, the Land Acquisition Collector, Rewari submitted report dated nil, Annexure P.5. Thereafter, when notification under section 6 of the Act was issued by the Government on 12.5.2011, Annexure P.6, land of the petitioners was released. When the award was announced on 10.5.2013,

Annexure P.7, the petitioners were surprised to know that their land was also included in acquisition. Hence the instant writ petition.

3. We have heard learned counsel for the parties.

4. Claim of the petitioners in the petition is that while issuing notification under Section 6 of the Act, the land belonging to the petitioners was not included whereas in the award announced on 10.5.2013, Annexure P.7, it had been included. It was urged that the same could not be legally done.

5. Alongwith the written statement, in the order dated 17.10.2014, Annexure R.1 passed by the respondent authorities, it has been recorded as under:-

“It was noted during the site visit that the applicant has constructed residential room (7.0 mx 3.7m) and two shop type structures over land comprising in Khasra No.27//6/2, which is tentatively around 35 square mtrs. No doubt that the applicant has lifted the complete compensation amount of this small pocket of acquired land and the law does not permit refund of the compensation amount already lifted. However, keeping in view that he is still residing at this site alongwith his family and the HSIIDC cannot integrate this small pocket with rest of the area, the best alternative, therefore, is that HSIIDC allots this area to the erstwhile land owner for a price which is equivalent to the compensation amount paid to him plus 15% interest thereon from the date of disbursement of compensation till the date of payment of the above amount by him to the HSIIDC. The representation is allowed in these terms.”

6. In view of the above, the grievance of the petitioners for excluding their land from acquisition stands redressed. However, learned counsel for the petitioners submitted that the charging of interest at the rate

of 15% on the compensation amount which was required to be paid by the petitioners was unreasonable and the same may be reduced.

7. We do not find any merit in the said submission. In the present case, the petitioners had continued to be in possession of the land in dispute and had received the compensation as well. Thus, the petitioners cannot be said to be in any disadvantageous position by holding them to refund the compensation amount received by them alongwith 15% interest from the date of disbursement of compensation till the date of payment of the said amount by them to HSIIDC. The stand taken by the respondents in the written statement as quoted above cannot be termed as unreasonable. Consequently, the writ petition stands disposed of accordingly.

(Ajay Kumar Mittal)
Judge

May 21, 2015
'gs'

(Rekha Mittal)
Judge