

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

**CWP No.11126 of 2015
Date of decision: 28.5.2015**

Gulab Singh

.....Petitioner

Vs.

The State of Haryana and others

.....Respondents

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

Present: Mr. Ved Parkash, Advocate for the petitioner.

Ajay Kumar Mittal, J.

1. The petitioner prays for setting aside the impugned order dated 13.10.2014, passed by respondent No.1, notifications dated 23.8.2007 & 21.8.2008 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act") and award dated 19.8.2010, Annexures P.4, P.1 to P.3 respectively. Further prayer has been made for releasing the land of the petitioner as has been done in the case of other similarly situated persons.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Notification under Section 4 of the Act was issued on 23.8.2007, Annexure P.1 for acquisition of land for a public purpose, namely for the development of residential and commercial Sector 9, Safidon for the Haryana Urban Development Authority. The petitioner filed detailed objections under Section 5A of the Act. Without considering the objections, the respondent authorities issued

notification under Section 6 of the Act on 21.8.2008, Annexure P.2. Award was announced on 19.8.2010, Annexure P.3. The petitioner submitted representation dated 8.11.2013 to the respondents for releasing only four marlas land/plot. He even approached this Court by filing CWP No.7315 of 2014 which was disposed of vide order dated 22.4.2014 with a direction to the respondents to consider and decide the claim of the petitioner by passing a speaking order in accordance with the government policies within a period of four months from the date of receipt of a certified copy of the order. The said representation was rejected by the respondents vide order dated 13.10.2014, Annexure P.4. The petitioner again sent representation dated 10.2.2015, Annexure P.5 to the respondents that his claim was only for release of 4 marlas of land. Having received no response, the petitioner filed the instant writ petition.

3. We have heard learned counsel for the petitioner.

4. The Secretary-cum-Director General, Urban Estates Department, Haryana while rejecting the claim of the petitioner vide order dated 13.10.2014, Annexure P.4 recorded as under:-

“3. The case was examined in the department and it was observed that the petitioner had filed objections under Section 5A of Land Acquisition Act, 1894 and there was no construction at site at the time of issuance of notification under section 4 of the Act *ibid*. As per fresh site survey, it is still lying vacant and it affects 60 m wide green belt (including 18 m wide service road) and the site reserved for EWS Housing. In view of these facts, it was recommended by the Department not to release any land in favour of the petitioner. The Government has approved the proposal of the Department. The order is issued accordingly. The petitioner be informed.”

5. Once the land had been acquired for a public purpose, namely,

for the development of residential and commercial Sector 9, Safidon, we do not find any justification to accept the prayer of the petitioner for release of his land. It clearly falls within the domain of the State to decide whether the land which is being acquired for public purpose would suit the said public purpose. It is only when the action of the State is actuated by malafides that the same would be amenable to judicial review. A Division Bench of this Court in *Sampuran Singh and others v. Union Territory, Chandigarh and others*, 2007(1) PLR 349 had held as under:-

“11. We are in full agreement with the learned counsel for the respondents. The State can always exercise its absolute power to acquire land, provided a public purpose exists and it is not necessary that it should succumb to the wishes or willingness of the owner or person interested in the land. The only exception can be when mala fide is shown and then the Courts are bound to protect the individuals from being the victims of such arbitrariness.”

6. In the present case, no material has been shown to substantiate the claim made in the writ petition or to demonstrate malafide on the part of the State in acquiring the land in dispute. No illegality or infirmity has been pointed out in the impugned order dated 13.10.2014, Annexure P.4 and the notifications. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 28, 2015
'gs'

(Rekha Mittal)
Judge