

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

**CWP No.11147 of 2015
Date of decision: 28.5.2015**

Raghbir Singh 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. Kamal Mor, Advocate for the petitioners.

Ajay Kumar Mittal, J.

1. The petitioners seek quashing of notifications dated 6.2.2013 and 27.12.2013 issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, the Act”) for construction of 66 KV and 220 KV sub stations sites for Sectors 69, 76, 99 and 115 of Village Dhankot, Kherki Majra, Tehsil and District Gurgaon. Further prayer has been made for releasing the land of the petitioners.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners were owner in possession of the agricultural land comprising in Khewat No.137, Khatoni No.214, Rectangle No.41, Killa Nos.9(8-0), 12(8-0), 18(8-0), 19(8-0), 23/1(2-4), 23/2(5-16) measuring 40 kanals situated within the revenue estate of Village Kherki Majra, Tehsil and District Gurgaon in equal share.

Out of the above land, 13 kanals 18 marlas was acquired by the Haryana

Government for Sectors 99 to 115. Notification under section 4 was issued on 6.2.2013, Annexure P.2 for acquisition of land for 66 KV electricity sub station. The petitioners filed objections under section 5A of the Act. Thereafter, notification under section 6 of the Act was issued on 27.12.2013, Annexure P.4. The petitioners also served legal notice dated 18.2.2015, Annexure P.5 on the respondents. Having received no response, they filed the instant writ petition.

3. Learned counsel for the petitioners submitted that as per the master plan of Gurgaon Manesar Urban Development 2021 and 2025, the said 66 KV of electric power house was earlier shown in Rectangle Nos.45 and 46 whereas the land of the petitioners fell in rectangle No.41 and intentionally the District Town Planning Officer had shifted this electric transformer in the land of the petitioners in Rectangle No.41.

4. We do not find any substance in the submission made by learned counsel for the petitioners. The land in the present case was acquired for a public purpose, namely, for construction of 66 KV and 220 KV sub stations sites for Sectors 69, 76, 99 and 115 of Village Dhankot, Kherki Majra Dhankot, Tehsil and District Gurgaon. The Apex Court in ***Bhagat Singh vs. State of UP and others***, (1999) 2 SCC 384 had held that it is not mandatory that the land under acquisition by the Government ought to be only for the particular public purpose or use as depicted in the Master plan or Zonal plan for the said area. The acquisition cannot be faulted on the ground that the land proposed to be acquired is for a different purpose as specified in the Master plan or Zonal plan applicable to that locality. While delving into identical issue, it was noticed in para 22 as under:-

“22. As pointed out in the above Judgments, there is no need that the land proposed to be acquired by the Government for a

particular public purpose should be for the same purpose or use mentioned in the Master Plan or Zonal Plan for the said area. Nor will the acquisition be invalid merely because the land proposed to be acquired is for a purpose other than the one permitted by the Master Plan or Zonal Plan applicable to that locality. Acquisition will be valid if it is for a public purpose even if it is not for the type of user permitted by the Master plan or Zonal plan in force at the-time. the acquisition is made. It will be for the beneficiary of the acquisition to move the competent authority under the Development Act and obtain the sanction of the said authority for suitable modification of the Master Plan so as to permit the use of the land for the public purpose which the land is acquired. In fact, it may be difficult for the beneficiary of the acquisition to move the competent authority under the Development Act seeking permission to change of land use even before the land is acquired or before possession is given to the beneficiary. On the principle stated in Aflatoon 's case, it is clear that acquisition for a public purpose and obtaining permission from competent authority under the concerned Development Act for change of land use are different from one another and the former is not dependent upon the latter.”

5. In view of the above, we do not find any substance for release the land of the petitioners or for quashing the impugned notifications. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 28, 2015
'gs'

(Rekha Mittal)
Judge