

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 14525 of 2013

Date of Decision: 23.01.2015

Darshan Singh and others

..Petitioners

versus

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present : Mr. H.S.Grewal, Advocate with
Mr. Harjot Singh Bedi, Advocate, for the petitioners.
Mr. Vinod S.Bhardwaj, Addl. Advocate General, Punjab,
for respondents No.1,2 and 5.
Mr. Rajbir Wasu, Advocate, for respondent No.4.
Mr. V.M.Gupta, Advocate, for respondent No.6.

S.J.VAZIFDAR A.C.J.

The petitioners have sought an order quashing the notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1894.

2. The petitioners contend that the State Government has no power to acquire the land under the Land Acquisition Act, 1894 as the land falls within the Regional Development Plan prepared under the provisions of the Punjab Regional and Town Planning and Development Act, 1995 (for short 'the PRTPD Act') and in view of Section 42 thereof. Section 42 of the PRTPD Act reads as under:-

"42.(1) When any land other than the land owned by the Central Government is required for the purposes of the Authority under this Act, the State Government may, at the request of the Authority, proceed to acquire it under the provisions of Land Acquisition Act, 1894, and on payment by the

Authority of the compensation awarded under that Act and of any other charges incurred in acquiring the land, the land shall vest in the Authority.

(2) For the purposes of the Land Acquisition Act, 1894, and any other law for the time being in force, the Authority shall be deemed to be a local Authority."

3. The learned counsel appearing on behalf of the petitioners contended that there was no request from the authority to the State Government to acquire the property for any purpose. The question of the authority making payment for the said land, therefore, does not even arise. It was submitted that the State Government can proceed to acquire the land under the provisions of the PRTPD Act only at the request of the authority and also only for the purpose of the authority under that Act. The acquisition, therefore, according to him, is contrary to the provisions of Section 42 of the PRTPD Act.

4. Had the acquisition proceedings been initiated under the provisions of the PRTPD Act, the submissions would have been well founded. The acquisition in this case, however, was not under the provisions of Section 42 of the PRTPD Act. The acquisition was not for the purposes of the authority under the PRTPD Act. The authorities under the PRTPD Act, namely, Greater Mohali Area Development Authority (GMADA) and Punjab Urban Development Authority (PUDA) expressly stated that they did not request the State Government to acquire the land for any purpose whether under Section 42 of the PRTPD Act or otherwise. The State Government on the other hand maintains that it seeks to acquire the property under the provisions of the Land Acquisition Act for the purpose of developing an Information Technology Park. The notifications issued under Sections 4 and 6 of the Land Acquisition Act state that the acquisition is for the public purpose for setting up an Information

Technology Park in Sector 101, Mohali. The acquisition, therefore, is not at the request of the authorities under Section 42 of the PRTPD Act. It is by the State Government under the provisions of the Land Acquisition Act. The question of the acquisition being contrary to the provisions of Section 42 of the PRTPD Act, therefore, does not arise.

5. It was then contended that the Regional Development Plan has been notified and finalized under the PRTPD Act and that the land in question falls within the area notified therein. It was submitted that in view thereof, any acquisition can only be under Section 42 of the PRTPD Act and the Central Government and the State Government are not entitled to acquire the property which falls within the Regional Development Plan under the Land Acquisition Act.

6. The submission is not well founded. There is nothing in the PRTPD Act that denudes the power or authority of the Central Government and the State Government from acquiring the property under the Land Acquisition Act merely because the same falls within the area notified under the Regional Development Plan prepared and finalized under the PRTPD Act. Nor is there anything in the provisions of the Land Acquisition Act to this effect. The Central Government and the State Government are entitled to acquire the land under the Land Acquisition Act. That the development on the property so acquired by the Central Government or the State Government may be regulated by the provisions of the PRTPD Act is a different matter altogether. That the development must be in accordance with the provisions of the PRTPD Act and is subject to the directions that may be issued by the authorities thereunder, does not support the contention that the provisions of the Land Acquisition Act cease to operate in respect of such properties.

7. In other words, although the property may be acquired by the State Government at the request and for the benefit of the authority under

the PRTPD Act, the State Government is not prevented from acquiring the property under the Land Acquisition Act. The powers of acquisition under the Land Acquisition Act are different from and independent of the powers of the State Government to acquire the property at the request and for the benefit of the authority under the PRTPD Act.

8. Our view is supported by the judgment of the Division Bench of Bombay High Court in case of ***Nagpur Land Developers Association through its President v. State of Maharashtra 2005(3) Mh.L.J. 881.***

Section 116 of the Maharashtra Regional Town Planning Act, 1966 (for short 'the MRTP Act') provides that every Special Planning Authority shall have the powers of a Planning Authority for the special purposes of acquisition of land in the notified area as it considers to be necessary for the purpose of development *inter-alia* under the Land Acquisition Act, 1894. Section 125 of the MRTP Act provides that any land required, reserved or designated in a Regional Plan, Development plan or town planning scheme for a public purpose or purposes shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition Act, 1894. Section 126 of the MRTP Act provides that when after the publication of a draft Regional plan, any land is required or reserved for any of the public purposes specified in any plan or scheme under the MRTP Act, the Planning Authority and the Development Authority etc. may acquire the land *inter-alia* by making an application to the State Government for acquiring such land under the Land Acquisition Act, 1894.

It was contended that once having initiated the acquisition proceedings and/or proposal for new town under the provisions of the MRTP Act, the provisions of the MRTP Act must be followed and any acquisition must be only under the provisions of that Act. It was contended that the State Government is not entitled to invoke simultaneously the

power of acquisition under the MRTP Act or the Land Acquisition Act, 1894.

The Division Bench held that there are two parallel modes available to the State Government for acquisition of the land, namely, under the Town Planning Act and under the Land Acquisition Act. Infact, the Division Bench went a step further and rejected the contention that once the acquisition proceedings are commenced for acquisition under the provisions of the MRTP Act, it is not open to the State Government to resort to the acquisition under the provisions of the Land Acquisition Act. In the case before us, this situation does not even arise. As we mentioned earlier the authorities under the PRTPD Act, namely, Greater Mohali Area Development Authority and Punjab Urban Development Authority have expressly stated that they have not requested the State Government to acquire the property under Section 42 of the PRTPD Act.

9. In the circumstances, the writ petition is dismissed, but with no order as to costs.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

23.01.2015
'ravinder'

Whether to be referred to the Reporter.	Yes✓	No.
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