

IN THE PUNJAB & HARYANA HIGH COURT
AT CHANDIGARH

Date of Decision: 22.12.2015

CWP No.21004 of 2011

Naresh Kumar & others

...Petitioners

Versus

State of Haryana & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: Mr. Ashish Gupta, Advocate, for the petitioners.
Ms. Palika Monga, DAG, Haryana, for respondent Nos.1 & 3.
Mr. Deepak Manchanda, Advocate, for respondent Nos.2, 4 & 5.

HEMANT GUPTA, J.

This order shall dispose of aforesaid writ petition challenging the notifications dated 03.06.2010 (Annexure P-3) & 17.06.2011 (Annexure P-6) issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for short 'the Act') respectively, in respect of acquisition of land situated in Village Teha, Tehsil, Ganaur, District Sonipat for a public purpose namely 'for the extension of New Modern Terminal Market for Fruits, Vegetables & others perishable goods in Village Teha, Tehsil Ganaur, District Sonipat'.

This order shall also dispose of six other writ petitions, as mentioned in the foot of the order, wherein the issue raised is identical as is raised in the present writ petition.

The petitioners are owner of land measuring 12 Kanal 4 Marla situated within the revenue estate of Village Teha, Tehsil Ganaur, District Sonipat. Initially, land measuring 488 Acre 3 Kanal 4 Marla was approved by the State Government for developing the Terminal Market at Gannaur. The State

Government issued impugned notification under Section 4 of the Act on 03.06.2010 in respect of land measuring 27 Acre 15 Marla situated in Village Teha, Tehsil Ganaur, District Sonipat including the land in question.

As per the respondents, the total requirement of the land for the fruit and vegetable market is measuring 493 Acre 2 Kanal 5 Marla. The Panchayat transferred 307 Acre 2 Kanal 12 Marla of land to the State, whereas 185 Acre 7 Kanal 13 Marla of land was acquired in the year 2008. Subsequently, while realizing that land measuring 44 Acre 3 Kanal 1 Marla is essential for the project, the notifications in question were issued.

The sole claim of the writ petitioners for challenging the acquisition process is that there are constructed houses on the land in question, therefore, in terms of Policy decision dated 30.09.2007 (Annexure P-7), such constructed portion is liable to be exempted from acquisition.

In the detailed reply filed on behalf of the State, it is pointed out that the houses in question are constructed within 30 meters of the National Highway. Such construction will block the facade of the Modern Terminal Market, which is very important project at National level of the State Government. A lot of area may shall go waste while planning in case, the constructed portions are to be exempted from acquisition and further provisions of services in zig-zag situation may be very difficult to provide and would be very expensive. It is also pointed out that though the Land Acquisition Collector recommended release of land of the petitioners, but the State Government keeping in view the project, approved the acquisition of land measuring 27 Acre 15 Marla including the land of the petitioners as a necessity. It was decided that the land-owners/dwellers, who have constructed their houses in this area, should be rehabilitated by framing a Rehabilitation Scheme. About 5-10 Acres of land shall be required for framing Rehabilitation Scheme for the residents of this area, who will be ousted due to

acquisition of this land. It is also pointed out that the houses are scattered and random construction, therefore, exemption from the acquisition will not be feasible.

On 27.11.2013, learned Advocate General, Haryana stated before the Bench that a Special Package Policy is under active consideration of the Authorities. In pursuance of such statement, learned Advocate General, Haryana on 28.01.2014 placed on record Special Rehabilitation Package. It was on 02.04.2014, it was noticed that the Special Oustees Policy formulated for the rehabilitation, awaits formal approval from the State Government.

Ms. Palika Monga, DAG, Haryana has informed that the State Government has now approved Special Rehabilitation and Resettlement Policy for the Oustees, whose land was acquired vide notification dated 17.06.2011 under Section 6 of the Act for the establishment of India International Horticulture Market at Ganaur (Sonipat). The said Policy, inter alia, contemplates allotment of alternative plots in lieu of constructed inhabited houses and allotment of land on account of acquisition of vacant land/plots.

We have heard learned counsel for the parties at length and found that no further orders are called for in the present set of writ petitions in view of the Special Rehabilitation and Resettlement Policy made applicable by the State in respect of the land/owners including the petitioners, whose land was acquired for the extension of New Modern Terminal Market for Fruits, Vegetables & others perishable goods in Village Teha, Tehsil Ganaur, District Sonipat.

Out of the chunk of land measuring 488 Acre 3 Kanal 4 Marla, the land in question in these writ petitions is only 3 Acre and 4 Marla. The houses of the petitioners are scattered and not in compact block. The exemption of the houses of the petitioners will not facilitate proper planning of the area. Thus, we find that the decision of the State Government to offer a Special Package for

allotment of alternative plots in lieu of the constructed houses/vacant land/plots is fair and reasonable settlement of the claims of the petitioners.

Learned counsel for the petitioners has pointed out that allotment of alternative plots is proposed in an area, which is not suitable. Firstly, it is undeveloped land and a land where there used to be a pond. Therefore, the State should carve out the plots, which are habitable and in the near vicinity of the land acquired.

We do not find that this Court can interfere as to the place where the plots are to be carved out for the oustees such as the petitioners. It is overall planning of the land acquired including the land available, which will prompt the State Government to take a decision and the suitability of the land over which the oustees can be rehabilitated. Thus, the place where land is proposed to be allotted cannot be interfered with in exercise of power of judicial review.

Consequently, we dispose of the present set of writ petitions with a direction that the respondents shall implement the Special Rehabilitation and Resettlement Policy for the Ousteas as produced before this Court expeditiously in accordance with law.

(HEMANT GUPTA)
JUDGE

22.12.2015
Vimal

(RAJ RAHUL GARG)
JUDGE

Sr. No.	Case No.	Parties Name
1.	CWP No.21005 of 2011	Mange Ram & others Vs. State of Haryana & others
2.	CWP No.21007 of 2011	Parmod Kumar & another Vs. State of Haryana & others
3.	CWP No.21008 of 2011	Ram Kumar & others Vs. State of Haryana & others
4.	CWP No.21009 of 2011	Sat Narain & others Vs. State of Haryana & others
5.	CWP No.21010 of 2011	Sukhbir Singh Tyagi & others Vs. State of Haryana & others
6.	CWP No.21011 of 2011	Daya Ram Vs. State of Haryana & others

