

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

**CWP No. 16390 of 2013
Date of decision: 01.07.2015**

Baljinder Singh and others

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

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

Present: Mr. Aman Arora, Advocate for the petitioners.

Ms. Munisha Gandhi, Addl.A.G.Punjab.

Mr. R.S.Khosla, Sr. Advocate with
Mr. Aman Sharma, Advocate for respondent Nos. 2 and 3.

Ajay Kumar Mittal,J.

1. The petitioners seek quashing of notification dated 23.11.2011, Annexure P.4 issued under Section 6 of the Land Acquisition Act, 1894 (in short, "the Act") reducing the area from 151.7125 acres to 97.425 acres as notified in the notification under section 4 of the Act. Further prayer has been made directing the respondents to acquire complete agricultural land of the petitioners occurring within 100 meter buffer zone near the boundary wall/fence of Air Force Station (Mullanpur).

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners were

owners of land comprising in Village Ferozepur Bangar, Tehsil Kharar, District Mohali where the respondents decided to develop the area adjoining the boundary wall/fence of Air Force Station (Mullanpur) for making MEDI City and ECO City. In pursuance thereto, the Government of India issued notification dated 3.3.2007, Annexure P.2 under sections 3 and 7 of the Works of Defence Act, 1903 vide which it declared that no building or structure shall be constructed, created or erected or no tree shall be planted on any land within the limits of 100 meters from the crest of the outer parapet of the Indian Air Force Station and installations, i.e., the said land was to be kept vacant for security reasons. Thereafter, the Government of Punjab issued notification dated 6.4.2011, Annexure P.3 under Section 4 of the Act whereby it was notified that 151.7125 acres of land will be acquired and thus agricultural land of the petitioners was notified to be acquired. Further, notification dated 23.11.2011, Annexure P.4 under Section 6 of the Act was also issued whereby 97.425 acres of land was acquired including agricultural land of the petitioners. Award dated 22.12.2011, Annexure P.5 was also pronounced determining the amount of compensation to the land owners. In consequence to the above notifications, the land around the Air Force Station (Mullanpur) was acquired by the respondents for the development of MEDI City and ECO city which was earlier utilized by the petitioners without any restriction upto the boundary wall/fence for agricultural purposes. The respondents for the development of the ECO city adjoining the boundary of the Air Force Station acquired the land including the 100 meter buffer zone, that is, right upto the boundary wall/fence of the Air force Station but while acquiring the land for the development of the MEDI City in Village Ferozepur Bangar, the

respondents did not acquire the land upto the boundary wall/fence of the Air force Station and rather it left the 100 metre buffer zone and acquired the rest of the land thereby rendering the agricultural land of the petitioners useless as they are now left with only a strip of land which cannot be utilized for any purposes in accordance with the notification. Though the respondents have made a provision of a 12 meter wide road in MEDI city near the Air force Station but the same is being developed not along the boundary wall/fence of the Air Force station as has been done in the case of ECO city and rather the same is being developed inside the land already acquired by the respondents. The petitioners wrote a letter dated 6.1.2012, Annexure P.8 to the Land Acquisition Officer, Mohali that since the above strip of land cannot be utilized for agricultural purposes due to non availability of the source of water for irrigation, therefore the said strip may also be acquired as the same had become useless. The petitioners sent a legal notice dated 13.1.2012, Annexure P.9 to the Chief Administrator, GMADA and Collector Land Acquisition, Punjab. They also filed an application under Right to Information Act, 2005 (in short, "the RTI Act") dated 22.2.2012, Annexure P.10 as to whether the land acquisition had commenced or was under planning for ECO city and MEDI city. In response thereto, the Collector Land Acquisition, Town Planning Department, PUDA vide its letter dated 2.4.2012, Annexure P.11 informed the petitioners that their office had acquired 419.9519 acres of land for ECO city project near Mullanpur and 97.425 acres of land for MEDI city project. However, with regard to the information whether the land was to be acquired right upto the boundary wall/fence of the Air Force Station, the authorities showed non availability of information with respect to the said fact. The petitioners also

sent a representation dated 4.9.2012, Annexure P.12 to the Chief Minister, Punjab. The petitioners again sought information under RTI Act on 12.4.2013, Annexure P.13. Having received no response, the petitioners filed the instant writ petition.

3. We have heard learned counsel for the parties.

4. Learned counsel for the petitioners submitted that only 4 acres of land has been acquired whereas 11 acres of land has been left. It was argued that nothing can be done on the un-acquired land and therefore, it may also be acquired. There are two projects in the area for which land of the petitioners has been acquired, one by the name of MEDI City while other is ECO City. It was further argued that there is no source of irrigation as tubewell is in four acres of land and because of the restriction for using the land within 100 meters of the defence area, the petitioners cannot do anything on the un-acquired land. It was urged that either four acres of land be released or 11 acres of unacquired land be also acquired.

5. Prayer was opposed by learned counsel for the respondents. Reliance was placed on averment made in para 11 of the written statement which is as under:-

“11.That the contents of this para to the extent of writing a letter dated 6.1.2012 to the Land Acquisition Collector, SAS Nagar are a matter of record. However, in reply to the rest of the contents of this para, it is submitted that the land in question cannot be used by GMADA for developing the project of MEDI City at Mullanpur and hence has been released from acquisition by the Government. However, the persons interested in the land in question are free to approach the Collector for appropriate compensation under the relevant provisions of the Works of Defence Act, 1903.”

After hearing learned counsel for the parties, we do not find

any merit in the writ petition.

7. Once the land had been acquired for a public purpose, namely, for the establishment of MEDI City (Health Facility) in Village Mullanpur in the area of Tehsil and District SAS Nagar, we do not find any justification to accept the prayer of the petitioners. 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.”

8. 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 notification under section 6 of the Act dated 23.11.2011, Annexure P.4. Whether there is any source of irrigation of the un-acquired land of 11 acres, learned counsel for the petitioners was unable to substantiate the same with reference to any concrete material. However, with regard to ingress or outgress to the said area, the petitioners can seek

their remedy in accordance with law. Further, as submitted by the respondents in their reply that in case, un-acquired land cannot be utilised because of certain conditions and defence restrictions, the petitioners are free to approach the Collector for appropriate compensation in accordance with the relevant provisions of the Works of Defence Act, 1903. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

July 01, 2015

(Rekha Mittal)
Judge

‘gs’