

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

CWP No.14027 of 2015

Date of decision:24.9.2015

Raj Kumar and another

....Petitioners

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Harkesh Manuja, Advocate for the petitioners.

HEMANT GUPTA, J.(Oral)

The petitioners are the owners of land measuring 2 kanals 8 marlas having purchased the same on 05.07.1991 and another parcel of land measuring 2 kanals 9 marlas purchased vide another sale deed dated 18.01.1994. The petitioners are said to have raised construction for the purpose of Gas Agency by constructing a gas godown on the land so purchased.

A notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') was published on 10.02.2011 (Annexure P-6) followed by a declaration under Section 6 of the Act dated 08.02.2012. The petitioners did not file any objections to the notification intending to acquire the land of the petitioners. Subsequently, an award was announced on 30.08.2013. The assertion of the petitioners is that their land was included in the declaration under Section 6 of the Act whereas the part of

land of Shri Dharam Rattan was not included in the declaration for the reason that such land has constructions over it. Subsequent representation of Shri Dharam Rattan for release of entire land was rejected on 21.01.2013. Therefore, the respondents have treated the petitioner and Shri Dharam Rattan in discriminatory manner as construction of one land-owner has been released from acquisition whereas the similar benefit has not been extended to the petitioners.

The Learned Counsel relies upon a judgment of Hon'ble Supreme Court in Rajinder Kumar and others v. State of Haryana and others, 2013 (1) Haryana Law Reporter 514 and also a judgment of learned Single Bench reported as Kishan Chand and others v. State of Haryana and another, 2004 (3) PLR 730, to contend that the State cannot treat different land-owners in discriminatory manner.

We have heard learned counsel for the petitioner and find no merit in the present writ petition.

A perusal of the order dated 21.01.2013 (Annexure P-21) shows that the Principal Secretary was considering the objections filed by Shri Dharam Rattan. It was noticed that the area in question was declared a controlled area under Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 and that the development plans published by the Department were not objected to by the aforesaid land owners. It was also found that objections were heard and that Joint Site Inspection Committee visited the site and on the recommendation of Land Acquisition Collector and that of Joint Site Inspection Committee, the Government has excluded 750 square yards of land being used for Rabbit Farm of Shri Dharam Rattan.

In the present case, not only the petitioners have not filed any objections but have impugned the acquisition after more than two years of announcing the award. The minutes dated 21.09.2011 of Joint Site Inspection Committee (Annexure P-14) records that there is a gas godown with 'B' and 'C' class construction and is not permissible accommodation in transport and commercial zone (wrongly translated as permissible). Once the gas godown is not permissible in the development plan, the same cannot be released from acquisition. The argument that the State has acted in discriminatory manner has to be between two similarly situated persons. In respect of Shri Dharam Rattan, it is permissible use whereas in respect of the petitioners it is not a permissible use.

Consequently, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 24, 2015
'D. Gulati'

(RAJ RAHUL GARG)
JUDGE