

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18074-2013

Date of decision: September 11, 2015.

PREM CHAND AND OTHERS

... **Petitioners**

v.

STATE OF HARYANA AND OTHERS

... **Respondents**

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

Present: Shri M.L. Sharma, Advocate, for the petitioner.
Ms. Palika Monga, Deputy Advocate General, Haryana.
Shri Kamal Sehgal, Advocate for respondent No.6 – HSIIDC.

Hemant Gupta, J. (oral)

Challenge in the present writ petition is to to the notifications dated 17.9.2004 and 13.3.2012 published under Sections 4 and 6 of the Land Acquisition Act, 1894. Particular challenge is in respect of khasra No. 29//12/2 2-12), 19/1 (5-12), 22/1 (4-9) measuring 12 kanal 13 marla situated in the revenue estate of village Naharpur Kasan, Tehsil and District Gurgaon.

The grievance of the petitioner is that the petitioner has earlier filed a writ petition bearing No.17126 of 2004 in respect of the said land as legal heir of Sher Singh. Such writ petition was allowed by a learned Single Bench of this Court on 16.4.2009. No letters patent appeal was filed against the said judgment and the order passed by the learned Single Judge, allowing the petition, attained finality.

There was another writ petition filed by some of the legal heirs of Sher Singh, i.e., CWP No.17281 of 2004, in respect of the same khasra

numbers but the said writ petition was decided along with LPAs against the order dated 16.4.2009 arising out of other writ petition. The said writ petition and the LPAs were allowed, whereby the urgency provisions alone were struck down and liberty was given to the State to proceed with notification under Section 6 of the Act, and that is how the notification dated 13.3.2012 came to be issued in respect of 12 kanal 13 marla of land owned by the petitioner.

Though both the writ petitions, by different set of petitioners, were filed in the year 2004 but the writ petition filed by the petitioner was decided earlier in point of time than the writ petition filed by some of the co-sharers. Since the writ petition filed by the petitioner has been allowed and no LPA has been filed, the order passed by the learned Single Bench dated 16.4.2009 cannot be permitted to be circumvented on the strength of the order passed in the other writ petition, bearing CWP No.17281 of 2004.

In view of the above, the writ petition is allowed. The notification dated 13.3.2012 in respect of share of the petitioner in land measuring 12 kanal 13 marla is quashed.

The writ petition is disposed of accordingly.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

September 11, 2015.
kadyan