

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

**CWP No.14972 of 2015**

**Date of decision: 27.7.2015**

**Nafe Singh**

**.....Petitioner**

**Vs.**

**State of Haryana and others**

**.....Respondents**

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

Present: Mr. Saurabh Dalal, Advocate for the petitioner.

**Ajay Kumar Mittal,J.**

1. The petitioner seeks quashing of notifications dated 7.7.2011 and 6.7.2012, Annexures P.1 and 3 respectively. Further prayer has been made for a direction to the respondents not to acquire the constructed structure of the petitioner as the same has been raised prior to the notification under Section 4 of Land Acquisition Act, 1894 (in short, "the Act"). Reliance has been placed on the policy dated 26.10.2007, Annexure P.7.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Notification under Section 4 of the Act was issued on 7.7.2011, Annexure P.1 for a public purpose namely for residential Sector 9A, Jhajjar. On 1.8.2011, the petitioner filed objections under Section 5A of the Act stating that he had

constructed showroom, two rooms, warehouse etc. on the land much before the notification under section 4 of the Act. He is also doing the business in the name of Neelkanth Marble house since 2005 on the land in dispute. Without considering the objections, the respondents issued notification under Section 6 of the Act on 6.7.2012, Annexure P.3. Though award was passed but the petitioner has not withdrawn the compensation and the possession is still with him. He is still running his business. The petitioner had also deposited fee for regularization of the land on 13.4.2010, Annexure P.5. According to the petitioner, the construction being prior to notification under section 4 of the Act, the land be released from acquisition in view of the policy framed by the respondents. Land of similarly situated persons has been released by the respondents. After the directions by this Court vide order dated 11.7.2013 Annexure P.8, in CWP No.15617 of 2012 (*Jitender and another vs. State of Haryana and others*), the respondents have released land of some of the holders who have construction on their land and where land is unusable for acquired purpose because of its location. Hence the instant writ petition.

3. We have heard learned counsel for the petitioner.

4. The land in the present case was acquired by issuance of notification under Section 4 of the Act in the year 2011 for a public purpose namely for development of residential Sector 9A, Jhajjar. The instant writ petition has been filed in the year 2015. A period of about four years has elapsed. The award was passed and compensation was determined though the petitioner did not withdraw the same. Challenge to acquisition proceedings after the announcement of the award has been held to be not

maintainable by a Division Bench of this Court in ***Des Raj Chela Satguru Kirpa Nand Ji vs. State of Haryana and others***, 2009(1) PLR 771 after following various pronouncements of the Apex court. It was held as under:-

“3. After hearing learned counsel for the parties at a considerable length we are of the considered view that by a catena of judgments, Hon’ble the Supreme Court has now held that a writ petition after announcement of award is not maintainable to challenge acquisition proceedings. In that regard reliance may be placed on the judgments of Hon’ble the Supreme Court rendered in the cases of *Star Wire (India) Ltd. v. State of Haryana*, (1996) 11 SCC 698; *Municipal Council Ahmednagar v. Shah Hyder Beig*, (2000) 2 SCC 48; *C. Padma v. Dy. Secretary to the Government of Tamil Nadu*, (1997) 2 SCC 627; and *M/s Swaika Properties Pvt. Ltd. v. State of Rajasthan*, JT 2008 (2) SC 280....”

5. Further, once the land had been acquired for a public purpose, we do not find any justification to accept the prayer of the petitioner. It clearly falls within the domain of the State to decide whether the land which is being acquired for a 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.”

6. In view of the above, no ground is made out for interference in writ jurisdiction under Articles 226/227 of the Constitution of India. No illegality or infirmity has been pointed out by the learned counsel for the petitioner in the impugned notifications. Consequently, finding no merit in the petition, the same is hereby dismissed.

**(Ajay Kumar Mittal)**  
**Judge**

**July 27, 2015**

**(Rekha Mittal)**  
**Judge**

‘gs’