

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

C.W.P. No.16832 of 2014

Date of decision: 08.01.2015

Dharam Chand & others

-----Petitioner

V/s

The State of Haryana & others

-----Respondents

and **C.W.P. No.16518 of 2014**

Kitab Kaur & others

-----Petitioner

V/s

The State of Haryana & others

-----Respondents

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Ajay Jain, Advocate
for the petitioners.

Mr. P.K. Jangra, Addl.A.G., Haryana
for respondent no.1.

Mr. Ajay Nara, Advocate
for respondent nos.2 to 4-HUDA.

HARI PAL VERMA, J.

This order shall dispose of aforementioned two writ petitions i.e. CWP No.16518 of 2014 and CWP No.16832 of 2014, whereby the petitioners have challenged the orders Annexure P-6 whereby while passing the

speaking order, the respondents have held that the 'Land Pooling Scheme' shall be applicable in respect of acquisition proceedings initiated for the purposes of development of residential sectors only, whereas the land of the petitioners has been acquired for the purpose of development and utilization of land for sector roads in Sector 22, 23 and 24, Dharuhera, District Rewari. Therefore, the claim of the petitioners is not covered under the Land Pooling Scheme notified on 10.9.2012. Since the facts of the two writ petitions are similar, for the facility of reference, the facts are taken from CWP No.16832 of 2014.

The petitioners were owners in possession of 17 Kanals 18 Marlas of land situated in the revenue estate of Village Garhi Alawalpur, Sub Tehsil Dharuhera, District Rewari and vide notification dated 6.9.2012 issued under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"), their land was acquired for the public purpose namely for development and utilization of land for sector roads in Sector 22, 23 and 24, Dharuhera. Notification under Section 6 of the Act was issued on 4.7.2013 and the award was passed on 13.12.2013.

In order to safeguard the interest of the land owners, the respondent-State has been formulating policies from time to time and in the year 2012, a 'Land Pooling Scheme' for development of residential sectors was notified

by the Haryana Urban Development Authority (HUDA) on 10.9.2012. Under the said scheme, the landowners were given an option to become partners in the development process and thus, the landowners whose land was required for development of residential sectors had the option either to accept the compensation in monetary terms, as available under the Act along with non-statutory benefits under the rehabilitation and resettlement policies or to seek compensation in the form of developed plots, as full and final settlement. The applicability/salient features of the Scheme are as under:-

“Applicability:

- (i) The Land Pooling Scheme shall be applicable in respect of acquisition proceedings initiated for the purposes of development of residential sectors pursuant to this Notification and shall take effect from the date of its Notification in the official Gazette.*
- (ii) A one-time opportunity of exercise of option under this scheme shall also be available to the landowners in respect of the current acquisition proceedings for aforesaid purposes where Notifications under Section 4 or Section 6 of the Act have been issued and the period available for announcement of the Award is four months or more. The landowners will be required to exercise their option in writing on prescribed application*

from (Appendix-2) within a period of 60 days of the issue of this Notification.

(iii) The landowner(s) would be eligible to participate in the Land Pooling Scheme only if a minimum of 1000 sq. yards or more of his/their land is acquired.”

Pursuant to notification dated 10.9.2012, referred to above, the petitioners submitted their option under the Scheme on 30.10.2012 (Annexure P-4) for the allotment of developed plot as per their entitlement.

It is the case of the petitioners that despite having submitted their option (Annexure P-4) in the prescribed form, the same has not been processed and even the award has been announced on 13.12.2013, for which, the petitioners filed a reference under Section 18 of the Act. On account of the acquisition of land of the petitioners, the petitioners have claimed allotment of plot as per their entitlement in the light of notification/scheme dated 10.9.2012, whereby the Scheme has been notified. Petitioners have also filed CWP No.2607 of 2014 before this Court which was disposed of vide order dated 12.2.2014 with a direction to the respondents to consider and dispose of the petitioners' claim in the light of Scheme dated 10.9.2012. Pursuant to the aforesaid direction, the respondents have passed the impugned order dated

24.7.2014 (Annexure P-6) whereby the claim of the petitioners have been rejected on the plea that the Land Pooling Scheme shall be applicable in respect of acquisition proceedings initiated for the purpose of development of residential sectors only. Since the land of the petitioners has been acquired for the purpose of development and utilization of land for sector roads in Sector 22, 23 and 24, Dharuhera, the claim of the petitioners for allotment of plot under the Land Pooling Scheme cannot be accepted. It is in the aforesaid circumstances, the petitioners have filed the aforesaid writ petition challenging the order dated 24.7.2014 (Annexure P-6) with a further prayer for issuance of direction to the respondents to allot a plot, as per their entitlement.

On notice having been issued, the respondents have filed their respective written statements. In the written statement filed by respondents no.2 and 4 – HUDA, a preliminary objection has been taken that the petitioner cannot claim allotment of plot under Land Pooling Scheme as the land of the petitioner was not acquired for carving out residential sector and rather, the land was acquired for development of sector roads in Sector 22, 23 and 24 at Dharuhera. The Land Pooling Scheme for which the notification dated 10.9.2012 was issued, vide Annexure P-3, is applicable only in respect of acquisition proceedings

initiated for the purpose of residential sectors. Para 3 of the said notification stipulates thus:-

“3(i) The Land Pooling Scheme shall be applicable in respect of acquisition proceedings initiated for the purposes of development of residential sectors pursuant to this Notification and shall take effect from the date of its Notification in the official Gazette.”

It has been pleaded that as the land of the petitioners was not acquired for development of residential sectors, therefore, the claim of the petitioners for allotment of plot was rightly rejected by the respondents vide order dated 24.7.2014 (Annexure P-6), as the said Scheme is not applicable in the case of the petitioners.

We have heard learned counsel for the parties.

Learned counsel for the petitioners has argued that under the Scheme, the land owner(s) opting for Land Pooling Scheme is entitled to be provided developed residential site in the form of residential plot and the said scheme is applicable in respect of acquisition proceedings initiated for the purpose of development and utilization of land for sector roads as well and therefore, the petitioners are entitled for allotment of plot under the Land Pooling Scheme. He further argued that the land of the petitioners was acquired for the development and utilization of land for sector roads and merely because the land owned by the

petitioners was utilized for sector roads, they cannot be deprived of their right of consideration for allotment of plot under the Scheme, as even for the residential area, sector road is one of the necessary component and in the absence of sector road, residential area cannot be visualised.

On the other hand, learned counsel for the respondents has reiterated his plea taken in the written statement that in view of para 3 of the Scheme, the case of the petitioners is not covered under the Scheme. It is further argued that the land of the petitioners was acquired for development of sector roads only and therefore, the claim of the petitioners for allotment of plot is not tenable and has been rightly rejected vide order dated 24.7.2014 (Annexure P-6).

Having considered the rival contentions of the parties, we have no hesitation to say that the present writ petition deserves to be allowed, as admittedly, the land of the petitioners was acquired for the public purpose namely for the development and utilization of land for sector roads. Since the sector roads is one of the necessary components for a residential area, it would be too unrealistic to state that the petitioners have no claim for allotment of plot, merely because their land was not acquired for development of residential sector. Without there being roads in the sector one cannot even imagine for the

residential area. The sector roads and the residential area are complementary to each other and in absence of roads, the existence of residential area is illusory. Construction of road is a step towards development of residential sector. Unless there is a road, there cannot be a residential area. Therefore, we have no hesitation to hold that the impugned order Annexure P-6, declining the claim of the petitioners for allotment of plot, is arbitrary and is not sustainable in the eyes of law. Since the land of the petitioners has been acquired for the purpose of development and utilization of land for sector roads, which is also used for residential areas, the petitioners are eligible for consideration for allotment of plot under the Land Pooling Scheme.

Accordingly, the both the writ petitions are allowed and the order dated 24.7.2014 (Annexure P-6) is quashed. It is held that the petitioners are eligible for consideration for allotment of plot under the Land Pooling Scheme on account of acquisition of their land holdings by the respondents for development and utilization of land for sector roads.

**(HEMANT GUPTA)
JUDGE**

**(HARI PAL VERMA)
JUDGE**

January 08, 2015
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