

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

CWP No.2889 of 2011

Date of decision:26.8.2015

L.D. Rice Mill and others

....Petitioners

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

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

Present: Mr. Anil Kshetarpal, Senior Advocate with
Mr. Piyush Aggarwal, Advocate for the petitioners.

Ms. Palika Monga,DAG, Haryana for respondents No.1 and 2.

Mr. Vinod S. Bhardwaj, Advocate for respondent No.3.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the notification dated 29.01.2010 published under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') intending to acquire land measuring 258 kanals 14 marlas i.e. 32 acres 2 kanals 14 marlas followed by a declaration vide notification dated 27.01.2011 under Section 6 of the Act.

The petitioners filed their objections under Section 5-A of the Act. Adjoining to the rice mill of the petitioners, there was another abandoned rice mill on an area of 25 kanals 10 marlas of which constructed portion was 2 kanals 10 marlas. After considering the objections filed, the State Government decided to release the land marked

X-1, X-2, X-3 and X-4, a rectangular portion of the land having frontage of the Jind - Kaithal road, from acquisition. Such land included the land measuring 14 kanals of the petitioners out of 40 kanals 8 marlas owned by the petitioners and 17 kanals of land, out of 25 Kanals 10 Marla land owned by the adjoining mill owner.

The Land Acquisition Collector has recommended release of 40 kanals 8 marlas of land, over which the rice mill is functioning but the State Government did not accept the recommendations of the Land Acquisition Collector for the reason that the frontage of Mandi will be reduced by more than one acre. Therefore, the file was sent to the Chief Minister in respect of acquisition of the entire land measuring 32 acres 2 kanals 14 marlas. The petitioners have produced the order of the Chief Minister that in view of the Government Policy for not acquiring the land where there has been construction even prior to Section 4 of the Act, it was ordered that the land marked as X-1, X-2, X-3 and X-4 be not acquired as such release will not affect the overall planning of the proposed scheme.

Learned counsel for the petitioners contended that the recommendation of the Land Acquisition Collector was for the release of the entire land which has not been accepted by the State Government without any justified reason. It is also argued that the land of the abandoned mill adjoining to the land of the petitioners has been released from acquisition, though the construction of the said mill was only on land measuring 2 kanals 10 marlas whereas almost 17 kanals of their land stands released as against 14 kanals of land of the petitioners. It is also argued that the owners of the abandoned rice mill has affected the sale of the land after publication of the notification under Section 4 of the Act

which shows that the State Government has released the land of the other rice mills in colourable exercise of the powers. It is also contended that in the other portion of the land sought to be acquired, owned by the petitioners, there are staff rooms and that open area is required for running of the rice mill.

On the other hand, Ms. Monga has referred to plan (Annexure R-1) to contend that a rectangular piece of land has been released from acquisition which land belongs to the petitioners and also of Prakash Rice Mills (adjoining rice mill), keeping in view the fact that there was construction on part of the said land. The remaining land of the petitioners has small structures which could very well be relocated in the land now released. Such acquisition is for utilization of land for the grain market. It is also argued that land of Prakash Rice Mill was released in view of the construction existing on the part of the land in view of the policy of the State Government dated 26.10.2007.

We have heard learned counsel for the parties and find that the petitioners are not entitled to any other indulgence except the indulgence already granted by the State Government. The land of the petitioners and that of the other abandoned rice mill has been released from acquisition is in rectangular shape. The other portion over which the petitioners claim to have raised construction is in the nature of small staff rooms and toilets etc. which could very well be adjusted by the petitioners in the land already released from acquisition. The large area of the land has been provided by the Municipal Council i.e. 61 acres 2 kanals 16 marlas, whereas the land of the other land-owners has been acquired to provide access to the land owned by the Municipal Council which is to be

used for the purpose of acquisition. Therefore, we find that the notification of acquisition of land is in a public interest and does not warrant any interference in exercise of the writ jurisdiction of this Court.

The argument that use of land of an abandoned rice mill is a colourable exercise of the power does not merit any acceptance. Firstly, owners of the said land are not party to the writ petition. Secondly, the land has been released keeping in view the construction raised. Mere fact that 17 kanals of adjoining land has been released as against 14 kanals of the petitioners is only a fortuitous circumstance keeping in view the fact that action of the respondents was to release a rectangular piece of land.

In view thereof, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

AUGUST 26, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE