

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

CWP No.20830 of 2013

Decided on: 20.08.2015

Sher Singh and another

. . . Petitioners

Versus

State of Haryana and others

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

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. Manoj Kumar Sood, Advocate
for the petitioner

Mr. Amar Vivek, Addl. A.G. Haryana

Mr. Sandeep Moudgil, Advocate,
for respondent No.2

HEMANT GUPTA, J. (ORAL)

The petitioners are owners of land measuring 4 Bighas 2 Biswas comprising in Khasra No.1842/2 (1-7), 1844 (0-2) & 1845 (2-13), Faridabad. A notification for acquisition of land measuring 1169.98 acres was published on 14.08.2008 with urgency provisions under Section 17(4) of the Land Acquisition Act, 1894 (for short 'the Act') and also dispensing with the filing of objections under Section 5A of the Act. The notification under Section 6 of the Act was issued on 30.08.2008. However, on 26.08.2010, the land measuring 233.98 (199.97 + 34.078) acres including land comprising in Khasra Nos.1817, 1821, 1822, 1823, 1824 and 1826 was

de-notified under Section 48 of the Act from acquisition. Thereafter, award in respect of land measuring 934.05 acres was announced on 27.08.2010.

It is, thereafter, another notification under Section 4 of the Act was issued on 04.07.2011 for acquisition of land measuring 35.13 acres including the land of the petitioners for the purpose of road in Sector 75 and 89, Faridabad, followed by a notification under Section 6 of the Act published on 02.07.2012. The award was announced on 20.05.2013. The grievance of the petitioners is that the road alignment has been changed to help builders more so when the owners have effected sale of the land under acquisition after the initial notification published.

As per written statement, the major part of Khasra Nos.1821 and 1822 was de-notified from acquisition being thickly built up area, as also Khasra Nos.1817, 1823, 1824 and 1826. The said khasra numbers are intended to be acquired for the purpose of 75 meters wide road, which cannot be abruptly turned at 90 degree. The same require realignment in a gradual manner, therefore, another notification dated 04.07.2011 under Section 4 of the Act was published followed by a declaration dated 2.07.2012 under Section 6 of the Act. The award in respect of said acquisition has been announced on 20.05.2013. The land in question is being acquired for Master Plan Road, Sector 75 to 89, Faridabad.

In another written statement filed by the Estate Officer, HUDA, on behalf of respondent No.2, it has been pointed out that the total land measuring 968.25 acres for the construction of roads in approximate length of 44 Kms. has been acquired for Master Plan Road, Sector 75 to 89, Faridabad including the land acquired vide notifications dated 04.07.2011

and 02.07.2012 under Sections 4 and 6 of the Act respectively and out of which 38.5 Kms. road in the length has been constructed at site.

A perusal of the lay out plan Annexure R-4 shows that earlier 75 meter road of length of 44 Kilometers starts from khasra Nos.1817, 1818, 1821, 1822, 1823, 1824 etc. However, due to heavy construction in Khasra Nos.1821 & 1822 etc., road alignment has been changed. Thus, the acquisition of land is sought to be justified.

Learned counsel for the petitioner has vehemently argued that construction over Khasra No.1821 has taken place after the small plots were sold by the land-owners after the publication of notification under Section 4 of the Act on 14.08.2008. Therefore, such construction could not have been taken into consideration while publishing a notification under Section 48 of the Act. The argument of learned counsel for the petitioner cannot be said to be incorrect, but the fact remains that the owners have executed sale deeds and that at the time of publication of the notification under Section 48 of the Act, there were 87 occupants on land, the size of plots measures 35 square yards to 200 square yards. The details of 87 occupants of Khasra Nos.1820, 1821 & 1822 have been mentioned in Annexure R-C (colly) attached with additional affidavit.

Therefore, even though some sale deeds have been effected after the publication of notification under Section 4 of the Act, but keeping in view the small areas sold and such area is being used for residential purposes by large number of people, the decision to realigned the road cannot be said to be arbitrary and irrational, warranting interference in the writ jurisdiction.

The notification dated 04.07.2011 under Section 4 of the Act, followed by declaration dated 02.07.2012 under Section 6 of the Act, is for the purpose of 75 meter Master Plan road and is a part of 44 Kilometers road. Therefore, the private interest of the petitioner has to give way to the larger public interest.

In view of the said fact, we do not find any illegality in the acquisition proceedings, which may warrant any interference by this Court in exercise of its writ jurisdiction. Consequently, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

(SHEKHER DHAWAN)
JUDGE

August 20, 2015
msd