

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

**CWP No.18884 of 2014
Date of decision: 6.8.2015**

Kaushlya Devi and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Vinod S.Bhardwaj, Advocate for the petitioners.

Ms. Palika Monga, DAG,Haryana.

Ajay Kumar Mittal,J.

1. The petitioners pray for setting aside the order dated 21.5.2014, Annexure P.12 declining their request for releasing the land from acquisition. Further prayer has been made for quashing the notifications dated 22.2.2007 and 22.2.2008, issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act"), Annexures P.5 and P.7 respectively.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners were owners in possession of land measuring 1028 square yards which was purchased by them vide sale deed dated 1.12.1988. They have constructed a house with boundary wall thereon. Initially, notification under Section 4 of

the Act was issued on 30.1.1989, Annexure P.3 for the purpose of development of residential and commercial area in Sector 1 Dadri, District Bhiwani, which was not finalised. Thereafter, survey was conducted and it was found that there were 100 residential houses constructed on the land. In spite of the survey report, fresh notification under Section 4 of the Act was issued on 22.2.2007, Annexure P.5 for development of Sectors 8 and 9, Dadri, District Bhiwani. The petitioners filed objections dated 12.3.2007 under Section 5A of the Act. Without considering the objections, notification under Section 6 of the Act dated 20.2.2008, Annexure P.7 was issued. The State of Haryana framed a policy dated 30.9.2007, Annexure P.8 for not acquiring the constructed buildings. According to the petitioners, the notification under Section 6 of the Act had left out of acquisition land measuring 11.406 acres and permission had been granted to M/s Dadri Land and Finance Colonizer by Director Town and Country Planning on 31.12.2007. Respondent No.3 vide his letter dated 5.12.2008, Annexure P.10 had left out the area on which Samadh of late Shri Munish Ram has been constructed. The petitioners approached this court challenging the above said notifications in CWP No.4219 of 2010 which was disposed of vide order dated 19.9.2013, Annexure P.11 with a direction that part of the land which was not required for widening of the existing road or service road should be released. In spite of the directions of this court, the claim of the petitioners was declined on the ground that the construction was in dilapidated condition and that the acquisition of land was falling within 75 meters wide development plan road and 12 meters wide service road whereas the remaining land was vacant. Thus, the case of the petitioners

was not covered under the policy of the State. In another petition i.e. CWP No.4093 of 2009, this Court directed the respondents vide order dated 19.9.2013, Annexure P.13 that a square plot of 350 square yards be released in such a manner that it should be abutting the road also. However, nothing was done in the case of the petitioners. Hence the instant writ petition.

3. We have heard learned counsel for the petitioners.

4. The land was acquired in the year 2007 for a public purpose namely for development of residential Sectors 8 and 9, Dadri, District Bhiwani. In pursuance to the directions issued by this Court vide order dated 19.9.2013, in CWP No.4219 of 2010 filed by the petitioners, Annexure P.11, the matter was examined in detail by the Secretary-cum-Director General, Urban Estates Department, Haryana. It was inter alia noticed in the order dated 21.5.2014, Annexure P.12 that the construction raised by petitioner Nos.1 and 2 was in dilapidated condition. The entire land of the said petitioners fell in the 75 meters wide development plan road whereas land of petitioner No.3 was lying vacant at site. Petitioner No.3 had already received the compensation on 25.1.2010. After considering the entire material on record, the request of the petitioners for releasing their land was rejected. The relevant portion of the order dated 21.5.2014, Annexure P.12, reads thus:-

“That as per the inspection report, there is construction only in the land of petitioner Nos. 1 and 2. The construction is in dilapidated condition. The entire land of petitioner Nos. 1 and 2 falls in the 75 meters wide development plan road. The land of petitioner No.3 is lying vacant at site. Part of this land as per detail mentioned in para 2 above, falls in the 12 meters wide service road and 75 meters wide development plan road. The

remaining part of land which is outside the service road and development plan road is vacant and hence not covered under the policy dated 24.1.2011. Moreover, petitioner No.3 has already received the compensation of the land on 25.1.2000. Therefore, in view of these facts, the request for release of land does not merit consideration. The Government has approved this recommendation. Hence the request of the petitioners to release the land cannot be considered and the same is declined. However, the petitioners are entitled for the incentives as per R&R policy of HUDA and CA HUDA is directed to work out the entitlements of the petitioners as per the policy. The petitioners be informed.”

5. Further, 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....”

6. Learned counsel for the petitioners has not been able to point out any illegality or perversity in the impugned order dated 21.5.2014,

Annexure P.12 or in the notifications issued under Sections 4 and 6 of the Act. He has also not been able to produce any material to substantiate the claim made in the writ petition. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

August 06, 2015

(Rekha Mittal)
Judge

‘gs’