

IN THE PUNJAB & HARYANA HIGH COURT AT
CHANDIGARH

Date of Decision: 02.11.2015

CWP No.21246 of 2015

Gurdeep Singh Dhaliwal

...Petitioner

Versus

Union of India & others

...Respondents

Present: Mr. M.L.Saggar, Senior Advocate, with
Mr. Gaurav Grover, Advocate, for the petitioner.

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

HEMANT GUPTA, J.

The petitioner has invoked the writ jurisdiction of this Court challenging the notification dated 20.05.2014 published under Section 3A of the National Highways Act, 1956 (for short 'the Act') followed by notification dated 28.04.2015 issued under Section 3D of the said Act.

The petitioner is a co-sharer to the extent of half share of the land measuring 49 Kanal 17 Marla and in possession of such land situated at Village Uggoke, Tehsil Tapa, District Barnala. The land of the petitioner is situated adjoining Barnala - Bajakhana Road, which is part of National Highway No.71, beginning from Alwar and goes up to Pathankot, which is connecting Barnala - Jalandhar.

The assertion of the petitioner is that notification under Section 3A of the Act was issued to acquire land for building, widening, four-laning, maintenance, management and operation of National Highway No.71 in the stretch of land from KM 0.00 to 144.630 (Jalandhar – Barnala Section). The stand of the petitioner is that when he came to India and went to the land on 16.08.2015, he found that Mile Stone of .6 KM has been illegally and unlawfully uprooted from

the original position. The exact assertion of the petitioner reads as under:

“7. That the petitioner went to the land on 16.08.2015. The petitioner noticed that Mile Stone of .6 KM had been illegally and unlawfully uprooted from the original position. The Mile Stone .06 KM had been shifted with a sinister design and malafide motive that the entire land required for the widening purposes of the road is acquired through the land of the petitioner. The petitioner brought this fact to the notice of respondent No.6 – Collector, Barnala and respondent No.7 – S.D.M. Tapa, who is competent authority vide written complaint dated 17.08.2015. The complaints were duly received in the office of respondent No.6. The Deputy Commissioner -cum- Competent Authority under the Act, Barnala and the office of respondent No.7 – S.D.M. Tapa. The photographs clearly establish beyond any shadow of doubts the uprooting of .6 KM Mile Stone with a malafide motive so that the entire area of the land to be acquired passes through the land of the petitioner. The copy of the complaint dated 17.08.2015 is annexed as Annexure P-5. The photographs are attached as Annexure P-6 (Colly).”

The grievance of the petitioner is that the Mile Stone .6 KM has been uprooted with a malafide motive so that the entire area to be acquired passes through the land of the petitioner. Thus, acquiring the entire land for widening of the Road is an arbitrary act and violative of Article 14 of the Constitution. The petitioner has attached the photographs Annexure P-6 (Colly) with the writ petition in support of the assertion that Mile Stone .6 KM has been uprooted. The petitioner also relies upon site plan Annexure P-7 prepared by Gurinder Singh, Draftsman, Malerkotla.

We have heard learned counsel for the petitioner at length and find no merit in the present petition. The petitioner has leveled allegations of mala fide in respect of uprooting of the Mile Stone, but no person, who has uprooted the Mile Stone in a mala fide manner, has been impleaded as a party. Still further, the photographs Annexure P-6 (Colly) do not show any uprooting and re-installation of the Mile Stone .6 KM. Such photographs show the grass grown around the Mile Stone and there does not seem to be any activity of any uprooting or re-installation.

petitioner has not attached any photograph or reflected the place form where the Mile Stone has been allegedly uprooted as well. Neither the petitioner nor his co-sharers have filed any objections to the notification published under Section 3A of the Act.

The sole reliance of the petitioner that Mile Stone has been uprooted is on the site plan (Annexure P-7) prepared by a private Draftsman. In such site plan, the distance between two points i.e. starting from a point on Tapa – Moga Road to the point on Faridkot – Barnala Road is 710 Mtr. The argument is that distances between two sub-Mile Stones should be 100 meters.

We do not find any merit in the said argument. The Mile Stones are erected in the straight line and not in the L-shape, as given by the petitioner in the site plan (Annexure P-7) i.e. one point starts on Moga – Tapa Road, whereas it ends at Faridkot – Barnala Road, when both roads are the continuing roads pass intersection.

Still further, the acquisition of land is not based upon the Mile Stones or the boundaries, but the acquisition of land is of the specific khasra numbers as per the notifications published. Therefore, the fact that the Mile Stone has been uprooted and reinstalled is not made out nor is material to determine the land, which forms part of the notifications under Sections 3A and 3D of the Act.

Consequently, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(HEMANT GUPTA)
JUDGE

02.11.2015
Vimal

(RAJ RAHUL GARG)
JUDGE