

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

CWP No.2499 of 2015(O&M)

Date of decision:29.10.2015

Suresh Chander Phogat

....Petitioner

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Jarnail S. Saneta, Advocate for the petitioner.

Mr. Rajesh Gaur, Additional A.G. Haryana
for respondents.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the notifications dated 23.08.2012 and 07.05.2013 published under Section 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act') respectively whereby land measuring 10 acres 4 kanals 16 marlas was acquired for a public purpose i.e. for construction of a new Bus Stand at Jhajjar. The said land included the land measuring 15 marlas purchased by the petitioner vide sale deed dated 27.05.1999.

The petitioner has sought release of the land in view of the policy dated 26.10.2007 (Annexure P-9) as revised on 24.01.2011 (Annexure P-10). The assertion of the petitioner is that family of the petitioner is living on the plot of land purchased by him. The petitioner has referred to the electricity bills in support of his contention. The

petitioner has also produced photographs (Annexure P-2) to show the nature of construction raised over the land acquired.

On the other hand, in the written statement filed on behalf of respondents, it was pointed out that possession of the land was taken on 29.05.2014 and that the existing position with respect to the construction raised by the petitioner, it was stated to be in a dilapidated condition unfit for human residence. Neither the petitioner nor his family members are residing in the property. Some of the photographs have been appended by the respondents along with the written statement to show that the constructed room is old and in a very poor state which may collapse at any time.

In a rejoinder filed, the petitioner has produced site plan (Annexure P-12) in support of the contention that part of the property falls within the passenger gate of the Bus Stand which gate can be shifted so as to permit the petitioner to use the construction raised for his use and occupation.

We have heard learned counsel for the parties and find no merit in the present writ petition. The photographs (Annexure P-2) produced by the petitioner shows that one room constructed is a temporary construction wherein some commercial activity is said to be in progress. The photographs (Annexure R-1) attached with the written statement shows one dilapidated room with some pavers and the sheets (construction material) lying on one side of the construction. The building is in a dilapidated condition.

The land purchased by the petitioner is required for the purpose of Bus Stand. Since the purpose of acquisition is to benefit the

travelling citizens, we find that the petitioner cannot be permitted to dispute the acquisition on the basis of dilapidated construction raised over a part of the land purchased by him. The policy dated 26.10.2007 (Annexure P-9) as revised on 24.01.2011 contemplates release of structures in existence prior to publication of notification under Section 4 of the Act. However, the decision of release of the land is required to be taken on merits of each individual case keeping in view the benefit of the development agency in terms of providing linkages, services and in the interest of planned development. Therefore, mere fact that construction exist on the spot is not a ground on the basis of which petitioner can seek release of the land.

Keeping in view that the requirement of the land is for a Bus Stand and the land of the petitioner falls where the gate of the Bus Stand is proposed, we do not find that such structure merits release from acquisition in terms of the policies framed by the State Government.

In view thereof, the present writ petition is dismissed. However, needless to say that the petitioner shall be entitled to the benefit of rehabilitation and resettlement policies framed by the State Government from time to time in accordance with law.

(HEMANT GUPTA)
JUDGE

OCTOBER 29 2015
'D. Gulati'

(RAJ RAHUL GARG)
JUDGE