

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.28628 of 2013 (O&M)
Date of decision: December 09, 2015.

MAM CHAND YADAV AND ORS.

... **Petitioners**

v.

STATE OF HARYANA AND ORS.

... **Respondents**

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

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

Present: Shri M.L. Sharma, Advocate, for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Hemant Gupta, J. (oral)

The challenge in the present writ petition is to the communication dated 19.11.2013 whereby the possession of the land acquired is sought to be taken with police assistance.

The petitioners claim to be co-owner of land comprising in Khewat No.30//41, Khasra Nos. 65 (2-12), 63 (0-1-0) and 64 (1-6-0) situated in the revenue estate of village Shikohpur, District Gurgaon. The petitioners are stated to have constructed their houses on the land prior to the issuance of notification under Section 4 of the Land Acquisition Act, 1895 (in short the Act). Initially notification under Section 4 read with Section 17 of the Act in respect of land measuring approximately 850 acres was issued on 11.2.2010, followed by a declaration under Section 6 of the

Act on 19.2.2010 but an award was announced thereafter on 14.6.2010.

The petitioners challenged the notification under Sections 4 and 6 of the Act in CWP No.6844/2010. This Court vide order dated 21.11.2010 set aside the declaration under Section 6 read with Section 17 of the Act and granted liberty to the State to proceed for the acquisition from that stage. The petitioners were granted opportunity to file objections. Thereafter, declaration under Section 6 of the Act was published on 18.8.2011. The award has subsequently been announced on 12.12.2011.

The petitioners challenged the subsequent declaration dated 18.8.2011 in CWP No.21857/2011. The said writ petition was disposed of on 4.9.2013 along with CWP No.21571/2011. The challenge to the notifications was declined. However, while dismissing the writ petition, this Court passed an order that that the petitioners shall be provided with a alternative sites before their dispossession in accordance with the policy dated 9.11.2010.

It is thereafter that the Land Acquisition Collector sought the police assistance for taking over the possession of the land in question for the reason that other co-sharers of the petitioners have accepted the amount of compensation of the land in question and, therefore, possession is liable to be delivered to the acquiring Department. As per the petitioners, they have not received the amount of compensation.

The stand of the respondents in the written statement is that the co-sharers have mutually partitioned their holding and that the respondents are taking possession of the land falling to the share of the other co-sharers who have received the compensation on 30.8.2010.

We have heard learned Counsel for the parties and find no merit in the writ petition. The other co-sharers have not disputed the acquisition as also the notification dated 19.2.2010. The other co-sharers have received the amount of compensation as awarded by the Land Acquisition Collector on 14.6.2010. The land stands partitioned between the co-sharers. Therefore, the State Government is competent to take possession of the land, of which compensation stands disbursed to the other co-sharers.

Therefore, in view of the above, the writ petition is disposed of as none of the rights of the petitioners are affected when possession is sought to be taken from the other co-sharers who have not disputed the acquisition.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

December 09, 2015.
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