

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.2917 of 2013

DATE OF DECISION: AUGUST 31, 2015

Sukh Ram son of Shri Pokhar MalPetitioner

Versus

The State of Haryana and othersRespondents

CORAM:- HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Dr.Parveen Hans, Advocate for the petitioner.

Mr.Arjun Singh Yadav, Assistant Advocate General,
Haryana for respondent No.1.

Mr.Sudeep Mahajan, Advocate for respondents
No.2 to 5.

<><><>

TEJINDER SINGH DHINDSA, J.

Petitioner seeks a writ of mandamus directing the respondents to allot a plot measuring 14 marlas under the oustees quota.

2. It has been averred that the petitioner was owner in possession of land measuring 28 kanals 26 marlas situated within the municipal limits of Hansi town. Land measuring 20 kanals 16 marlas was acquired by the State Government for development of Sectors 3, 5 and 6, Part-II, Hansi in the year 2006. A public notice dated 16.3.2010 is stated to have been issued by the Estate

Officer, HUDA, Hisar, respondent No.5 inviting applications from the land owners for allotment of plots under the oustees quota pertaining to land acquired for Sectors 3, 5 and 6, Part-II, Hansi. The petitioner submitted an application within the prescribed time frame. However, his claim for allotment of a plot has not been accepted on the basis that less than 75% of the total land owned by him has been acquired.

3. In the written statement filed on behalf of respondents No.2 to 5, the rejection of the claim of the petitioner has been justified on two counts. It has been stated that the land of the petitioner that has been acquired is less than 75% of his total land holding and secondly, a sale-deed had been executed in favour of the petitioner after issuance of notification under Section 4 of the Land Acquisition Act.

4. On 27.1.2015, following order was passed by this Court:

“The stand of the respondents in the written statement is that the petitioner has purchased the property after the date of notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') dated 29.8.2005.

The petitioner has filed Jamabandi for the year 1999-2000 which shows that the petitioner was the owner of the land measuring 28 Kanal 16 Marla. Thus, prima facie it appears that the stand of the respondents that the petitioner has purchased the land after the Notification under Section 4 of the Act may

not be correct.

Learned counsel for the respondents seeks some time to produce the record in respect of purchase of land by the petitioner after 2005.

List on 09.03.2015."

5. Mr.Sudeep Mahajan, Advocate appearing for contesting respondents No.2 to 5 has made a categoric statement across the Bar during the course of hearing today that the rejection of the claim of the petitioner is on the solitary ground that his acquired land is less than 75% of the total land holding.

6. It is the common case of the parties that claim of the petitioner under the oustees quota would be regulated in terms of the Rehabilitation and Re-settlement Policy of land owners – Land Acquisition Ousteas notified on 7.12.2007. Such policy has been placed on record and appended as Annexure P4. In terms thereof, plots under the policy would be offered if the land proposed to be acquired is under the ownership of the oustee on the date of publication of notification under Section 4 of the Land Acquisition Act and if 75% or more of the total land owned by the owner in that urban estate is acquired.

7. Concededly, the land of the petitioner that has been acquired by the State Government is to the extent of 71% of his total land holding. Under such circumstances, there would be no warrant for this Court to issue directions for allotment of a plot in favour of the petitioner under the oustees category and which run counter to the policy framed by the State Government on the subject.

8. Confronted with such situation, learned counsel for the petitioner would raise an alternative prayer for the State Government to acquire another 1 kanal and 4 marlas approximately of the petitioner's land to make good the deficiency as regards satisfying the 75% eligibility condition of acquisition as per policy dated 7.12.2007. We are unable to even accept such prayer in exercise of our jurisdiction under Article 226 of the Constitution of India. Liberty, however, is granted to the petitioner to raise such contention and prayer before the appropriate authority and who, in turn, would be obligated to consider the same in accordance with law.

9. Petition is, accordingly, disposed of.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

AUGUST 31, 2015
SRM

Note: Whether referred to Reporter? (Yes/No)