

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

Date of decision: 02.09.2015

1. CWP No.3127 of 2013(O&M)

Rampat and others **....Petitioners**

VERSUS

State of Haryana and others **.....Respondents**

Present: Mr. Ashwani Talwar, Advocate and
Mr. Sandeep Sharma, Advocate
for the petitioners.

Ms. Palika Monga, DAG, Haryana
for respondent No.1 to 3.

Mr. Shailendra Jain, Senior Advocate with
Mr. Bhagender, Advocate
for respondent No.4.

2. CWP No.3138 of 2013(O&M)

Manoj Kumar **....Petitioner**

VERSUS

State of Haryana and others **.....Respondents**

Present: Mr. Ashwani Talwar, Advocate and
Mr. Sandeep Sharma, Advocate
for the petitioner.

Ms. Palika Monga, DAG, Haryana
for respondent No.1 to 3.

Mr. Shailendra Jain, Senior Advocate with
Mr. Bhagender, Advocate for respondent No.4.

3.

CWP No.6045 of 2013(O&M)

Raghunath Singh and others

....Petitioners

VERSUS

State of Haryana and others

.....Respondents

Present: Mr. Kulbhushan Sharma, Advocate
for the petitioners.

Ms. Palika Monga, DAG, Haryana
for respondent No.1, 3 and 4.

Mr. Shailendra Jain, Senior Advocate with
Mr. Bhagender, Advocate for respondent No.5.

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

HEMANT GUPTA, J.(Oral)

This order shall dispose of CWP Nos.3127, 3138 and 6054 of 2013 challenging notification dated 13.07.2012 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') followed by a declaration under Section 6 of the Act published on 28.12.2012. In pursuance of such notification, Land Acquisition Collector has announced award on 20.09.2013. Vide the aforesaid notifications; land measuring 1.356 acres was acquired for 75 meter wide road.

The argument of learned counsel for the petitioners is that 6 kanals 2 marlas of land of a developer i.e. M/s Dwarikadhis Project Pvt. Ltd. – respondent No.4 was proposed to be acquired but the said land has

been excluded while publishing notification under Section 4 of the Act on 25.04.2008. In pursuance of such notification, award was announced on 09.08.2010. It is thereafter, notification in question has been issued for acquisition of the land in an arbitrary manner so as to grant benefit of land to the developer who has been granted license on 19.01.2007 on the other side of the road.

Learned counsel for the petitioners refer to noting from the record of Haryana Urban Development Authority (for short 'HUDA') pertaining to acquisition of 75 meter peripheral road at Dharuhera. Noting sheet shows that a proposal was mooted to acquire 79.21 acres of land. However, the Director, Urban Estates, on 05.07.2008 directed the office to verify as to whether any license or CLU has been granted vis-à-vis the area proposed to be acquired. In pursuance of such noting, it was found that 6 kanals 2 marlas of land of the developer forming part of 3 licenses comes within the land to be acquired. On the basis of such report, the notification of acquisition of land was approved for 78.45 acres i.e. 79.21 acres less 6 kanals 2 marlas.

Learned counsel for the petitioners has argued that 6 kanals 2 marlas of land is the land owned by the developer and that he is bound to give this land to the State free of cost in terms of Condition No.4 of the licenses. The relevant extract from License No.26 of 2006 reads as under:-

“4. That the portion of Sector / Master plan road which shall form part of the licensed area shall be transferred free of cost to the Government in accordance with the provisions of Section 3(3)(a)(iii) of the Haryana Development and Regulation of Urban Areas Act, 1975.”

On the other hand, Ms. Palika Monga has pointed out that in the Final Development Plan (Annexure R-1) for Controlled Areas around Industrial Estate, Dharuhera in terms of Section 5 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 was finalized on 14.12.2007. The land in question is reflected as pocket 'A' which is part of the alignment of 75 meter wide road. It is pointed out that the road alignment has not been changed which is supported by another lay-out plan, produced during the course of hearing, which has been taken on record as Annexure R-4/2 with the consent of the parties.

A perusal of lay-out plan (Annexure R-4/2) shows that the proposed road is 75 meter wide starting from RD 4350 touching National Highway 71B. The said plan shows three Pockets i.e. A, B & C, which are subject matter of acquisition. Such Pockets are small Pockets, which left out from acquisition for one or the other reason. There is no dispute regarding Pockets A & B, but the writ petition pertains to the land of Pocket C in the lay-out plan. The width of road is 64 meters i.e. RD 1800 and merges with 45 meter Sector road at RD 1200, when the width of road is 69 meter at Pocket C. However, the said lay-out plan does not show that there is any change in alignment of road so as to exclude the land of the developer and to include the land of the petitioners for acquisition purposes.

We find that the road alignment has not been changed while acquiring the land. It appears that the office of HUDA proposed

acquisition of 79.21 acres by including land measuring 6 kanals 2 marlas, though the license has been granted to the developer earlier on 19.01.2007. Since the width of the 75 meter road was not available at pocket 'C', the land of the petitioners has been made subject matter of acquisition.

Condition No.4 of the license would be applicable, if as per the development plan the road passes through the licensed colony. Since as per the development plan, the road is not passing through the colony of the developer, Condition No.4 in the license would not be applicable in the present case.

The acquisition is in tune with the development plan published in the year 2007, pursuant to which earlier acquisition was made vide notification dated 25.04.2008 under Section 4 of the Act. Therefore, we do not find any merit in the grievances raised by the petitioners.

Consequently, all the writ petitions are dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 2, 2015
'D. Gulati'/Vimal

(RAJ RAHUL GARG)
JUDGE