

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CWP No. 3175 of 2014

Date of Decision : February 24, 2015

Shakuntala

....PETITIONER

Vs.

State of Haryana and others

....RESPONDENTS

**CORAM : HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present : Mr. Ashok Tyagi, Advocate,
for the petitioner.

Ms. Palika Monga, Deputy Advocate General, Haryana,
for the State.

Mr. J.P.Bhatt, Advocate,
for respondent No. 2.

AUGUSTINE GEORGE MASIH, J.

1. Land of the petitioner comprising Khasra No. 31//15(8-0) in Village Medawas Tehsil and District Gurgaon was acquired by the respondents vide Award No. 62 dated 05.06.2013 for the purpose of construction of 60 meter wide sector dividing road of Sectors 64/65 Gurgaon. The total land of the petitioner under acquisition was 7 Kanals 3 Marlas. Petitioner, prior to the Award, filed CWP No. 16824 of 2012 challenging the acquisition of her land. The said writ petition was disposed of by this Court vide order dated 05.08.2013 (Annexure P-5), wherein it was not disputed by the respondents that the entire

acquired land was not required for the construction of the road and land measuring 1 Kanal 17 Marlas would be left out unused and, therefore, could be exempted from acquisition without obstructing the development of the road in question. The Court, however, did not express any views but observed that the respondents shall re-demarcate the petitioner's land after notice to her and if at the spot, a portion of the acquired land of the petitioner is found to be lying beyond the outer limit of the road and the same can be released from acquisition, the respondents shall consider such a claim of the petitioner. The appropriate order was to be passed within the time specified therein. The petitioner had given no objection qua acquisition of her land to the extent it actually fell within the road and was required for its development.

2. In pursuance to the observations of this Court, a Joint Site Inspection Committee was constituted, which was headed by the Administrator, HUDA, Gurgaon, to carry out the fresh survey at the site and submit a report. According to the demarcation carried out at the site, it was found that only 6 Kanals and 3 Marlas land of the petitioner was required for construction of the sector dividing road (64/65) and 12 meter wide service road. The report indicated that the total acquired land of the petitioner i.e. 7 Kanals and 3 Marlas was still lying vacant. On consideration of the report of the Joint Site Inspection Committee, the Director General, Urban Estates, Haryana-respondent No. 4 passed an order dated 08.01.2014 (Annexure P-6) accepting the report of the Joint Site Inspection Committee, however, he observed that the major portion of the land

acquired of the petitioner was falling in the road alignment and that once the road gets constructed and the Government is left with some marginal land, it would be in the fitness of things to take an informed decision at that stage rather than releasing the land in isolation in any particular case. This observation appears to have come keeping in view a wider prospective so that there is no difficulty at a later stage. The claim of the petitioner for release of the land, at that stage, has, thus, been declined.

3. Petitioner has approached this Court by way of the present writ petition challenging this order passed by the Director General, Urban Estates, Haryana, dated 08.01.2014 (Annexure P-6) on the ground that the action of the respondents is unsustainable, arbitrary and unreasonable especially when the Joint Site Inspection Committee has concluded that 1 Kanal land of the petitioner was not required for construction of the sector dividing road and, therefore, keeping the claim of the petitioner in abeyance with regard to the release of her land, which is not to be used, cannot be sustained. Counsel for the petitioner has argued the case on these lines placing reliance on the site plan, which has been appended on record, the report of the site inspection dated 19.10.2013 (Annexure P-7) and the minutes of the meeting of the Joint Site Inspection Committee held on 15.11.2013 (Annexure R-6/1).

4. Counsel for the respondents, on the other hand, has asserted that the claim of the petitioner has not been rejected but vide the impugned order, the matter has been kept pending and final decision postponed so that there is no complication at a later stage

when the sector dividing road is actually constructed. Once the construction of the road stands completed and the respondents are left with some land, decision would be taken regarding the release of the land of the petitioner. Accordingly, she submits that the writ petition, at this stage, is premature.

5. We have considered the submissions made by the counsel for the parties and have gone through the records of the case.

6. The contention of the petitioner with regard to the consideration of her claim for release of 1 Kanal land which is likely to be left unutilized has not been rejected by the respondents but has been deferred vide the impugned order dated 08.01.2014 for taking a final decision thereon. The operative part of the impugned order passed by the Director General, Urban Estates, Haryana-respondent No. 4 reads as follows:-

“ The report of JSIC has been examined. It has been noticed that the land is lying vacant meaning thereby that the road is yet to be constructed. Further, major portion of the land is falling in the road alignment which shows that the land has been correctly acquired for the purpose for the construction of sector road. Therefore, there seems to be no ground at this stage for considering release of any portion of the land. Once road get constructed and the Government is left with some marginal land, it would be in the fitness of things to take an informed decision at that stage rather than releasing

the land in isolation in any particular case. Therefore, a view has been taken not to consider release of land at this stage.

3. The Government has approved the above recommendation regarding not to consider the release of land at this stage.

4. In view of the position explained above, the request of the petitioner to release the land cannot be considered at this stage and the same is, hereby, declined. The petitioner be also informed.”

7. On considering the above, we are of the view that the action taken by the respondents cannot be said to be unreasonable, arbitrary or unjustified. The final decision with regard to release of the land of the petitioner has been postponed till the completion of the construction of the road at the site where the land of the petitioner has been acquired. Once the construction is complete and the respondents are left with some unutilized land, a decision with regard to the release of the land of the petitioner shall be taken. This approach of the respondents appears to be just and reasonable, which is intended to avoid any complication at the site when the actual construction of the road is given effect to.

8. We, therefore, find no illegality in the order impugned. However, a direction is issued to the respondents to take a final decision within a period of two months with regard to the release of the land of the petitioner once the construction of the sector dividing

road is completed at the site.

9. The writ petition is disposed of accordingly.

**(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

February 24, 2015

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