

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

CWP No.6367 of 2014

Date of decision: 30.6.2015

Dr. V.K.Sharma

-----Petitioner

Vs.

Union of India and others

-----Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present:- Mr. Har Naresh Singh Gill, Advocate for the petitioner.

Mr. Rishi Kaushal, Advocate for respondent No.1.

Ms. Munisha Gandhi, Addl.A.G. Punjab with
Mr. S.K.Bansal, AAG, Punjab.

Mr. Balwinder Singh, Advocate for GMADA (respondent Nos.
4 and 5).

Ajay Kumar Mittal,J.

1. The petitioner impugns the order dated 11.4.2012, Annexure P.11 passed by the Estate Officer, Greater Mohali Area Development Authority, Mohali (GMADA) whereby his application for rehabilitation of uprooting shop has been rejected without taking into consideration National Rehabilitation and Resettlement Policy, 2007 (in short, "the 2007 Policy"), Annexure P.4 issued by the Ministry of Rural Development, Government of India.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner is a doctor by profession. He took two adjoining shops (12'x18' each) on rent from Gurudwara Singh Shahidan, Sohana, District Mohali on lease vide

lease agreement dated 17.11.2004, Annexure P.1. The petitioner was running hospital in the name of S.S. Hospital in Shop Nos.21-22. He was serving people in the surrounding villages and those residing in Sectors 69 and 70, Mohali. For four lanning of airport road to Kharar via Sector 74, the petitioner alongwith other occupants of adjoining shops were asked by the GMADA official to remove their equipments. Ultimately on 29.5.2010, the shop of the petitioner alongwith other adjoining shops were demolished by the verbal order of official of the GMADA and the National Highway Authority of India. The petitioner gave an application for rehabilitation and resettlement to respondent Nos. 1 and 5 and other authorities to consider his case under the 2007 policy. The Ministry of Rural Development, Government of India, respondent No.1 notified the National Policy for Rehabilitation and Resettlement in the year 2007 for those affected persons who did not have any legal or recognized right over the land on which they were dependent. As per the policy, the concerned authorities were duty bound to conduct survey of the persons who had lost their trade, business or occupation and to prepare the list of affected persons. The representation given to the respondent authorities was rejected vide letter dated 17.7.2010, Annexure P.5 and the petitioner was asked to approach the Executive Engineer, Central Works Division, Roopnagar. Even there, the claim of the petitioner was rejected vide letter dated 25.8.2010, Annexure P.6 on the ground that the structure was demolished by GMADA and National Highway Authority of India. The petitioner was asked to approach Punjab Greater Mohali Development authority for rehabilitation and resettlement. The petitioner gave reminders to the Chief Administrator of GMADA to

look into his case as per the 2007 policy. When nothing was heard from the concerned authorities, the petitioner submitted an application before the Chief Minister, Punjab on 6.3.2011, Annexure P.9. The Collector, Land Acquisition and Housing Development, Mohali vide letter dated 2.5.2011 asked the details of the Hospital being run by the petitioner and the lease deed. The petitioner vide letter dated 16.6.2011, Annexure P.10 produced the lease deed as well as the rent receipts and asked the authorities to allot him a commercial site to run hospital as he was also providing free medical aid to the poor patients. The claim of the petitioner was rejected vide letter dated 11.4.2012, Annexure P.11 on the ground that his case did not fall under the 2007 policy. Hence the instant writ petition.

3. A written statement has been filed on behalf of respondent Nos. 4 and 5 – GMADA wherein in the preliminary objections, it has been inter alia stated that 58 kanals of land belonging to Gurudwara Singh Shahidan had been exempted from acquisition. Hence no tenant on this land could raise any claim before the respondents for his rehabilitation and resettlement.

4. We have heard learned counsel for the parties.

5. Learned counsel for the petitioner submitted that the petitioner who was in occupation of the premises as a lessee was carrying on his clinical activities since 2004. On that basis, the petitioner was entitled to the benefit of 2007 policy.

6. On the other hand, learned counsel for the respondents submitted that the benefit under the 2007 policy was not available to a person who was a tenant. The petitioner being a tenant of Gurudwara Singh

Shahaidan had no concern. The entry of land as gair mumkin Gurudwara sahib and shop did not in any manner confer any right on the petitioner. Further, 58 kanals of land of Gurudwara Singh Shahidan had been exempted from acquisition.

7. After hearing learned counsel for the parties, we do not find any merit in the writ petition. The National Rehabilitation and Resettlement Policy 2007 had been framed by the Ministry of Rural Development, Government of India inter alia to provide a better standard of living, making concerted efforts for providing sustainable income to the affected families. Learned counsel for the petitioner was unable to establish that the 2007 policy anywhere provided benefit to a person who is occupying the premises as a tenant or lessee. The stand taken in the written statement filed on behalf of respondent Nos. 4 and 5 reads as under:-

“6. That in reply to the contents of para 6 of the writ petition, it is humbly submitted that the submission of application dated 14.3.2010 to the answering respondents, if any, is inconsequential since the petitioner, as a tenant of Gurudwara Singh Shahidan, has no concern with the answering respondents. It is further humbly submitted that neither any policy has been formulated by the answering respondents nor the answering respondents are enjoined upon to take any action under the National Rehabilitation and Resettlement Policy, 2007. Rest of the contents of this para are wrong hence denied.

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14. That the contents of para 14 of the writ petition are wrong hence denied. It is humbly submitted that the entry as 'Gair Mumkin Gurudwara Sahib and Shops' does not, in any manner, confer any right on the petitioner. It is further humbly submitted that 58 kanals land of Gurudwara Singh Shahidan

had, as such been exempted from acquisition. It is not only absolutely wrong but absurd and vehemently denied that the answering respondents are liable to pay any damages to the petitioner for delay in allowing the totally misconceived, misplaced and wrongful claim of the petitioner.”

In such a situation, benefit of the policy cannot be granted to the petitioner. Moreover, in view of the fact that 58 kanals of land of Gurudwara Singh Shahidan of whom petitioner had claimed himself to be tenant has already been exempted from acquisition. Thus, no right accrued in favour of the petitioner as tenant. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

June 30, 2015
'gs'

(Rekha Mittal)
Judge