

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

CWP No.6313 of 2015(O&M)

Date of decision: 5.11.2015

Rati Ram and another

....Petitioners

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Ram Bilas Gupta, Advocate for the petitioner(s).

Ms. Palika Monga, D.A.G. Haryana, for respondent No.1.

Mr. Anshul Jain, Advocate for

Mr. Amar Vivek, Advocate for respondent No.2.

Mr. N.S. Swaich, Advocate for respondents No.3 and 4.

HEMANT GUPTA, J.

The petitioners are owners of the land measuring 62 kanals 9 marlas. The land owned by the petitioners became subject matter of acquisition vide notification dated 14.08.2008 issued under Section 4 read with Section 17 of the Land Acquisition Act, 1894 (for short 'the Act') for acquisition of land measuring 1169.98 acres followed by a notification under Section 6 read with Section 17 of the Act on 30.08.2008 for the said land. Award in pursuance of aforesaid notifications was announced on 27.08.2010 in respect of 934.05 acres. It is also pointed out that the petitioner has received the compensation of the acquired land vide cheque dated 13.01.2011.

Thereafter, a notification was published under Section 48 of the Act on 26.08.2010 in respect of land measuring 199.97 acres of land said to be thickly populated and in respect of 34.018 acres which the colonizers were bound to handover to Haryana Urban Development Authority free of cost as a part of the condition of licence granted to them. On account of the release of such land, realignment of road was proposed and land measuring 35.13 acres was notified for acquisition on 04.07.2011 followed by a notification under Section 6 of the Act on 02.07.2012. The award in respect of 35.13 acres was announced on 20.05.2013. Such land is not subject matter of challenge in the present writ petitions.

The challenge of the petitioners is that the unutilized land is would be transferred to BPTP (a private colonizer). Therefore, the petitioners are entitled to re-possess the excess land acquired.

Ms. Monga pointed out that the marginal land along with the Master Plan Road, as per the planning practice, would be maintained as a green buffer between residential sectors and industrial sectors. She has referred to the additional affidavit dated 13.7.2015 of Shri R.K.Singh, Additional Director Urban Estates Department, Haryana in CWP 21835 of 2013 which writ petition has been taken up for decision today in a separate bunch of the writ petitions. Such provision of green buffer has been made in Draft Development Plan 2031 AD Faridabad as well. It is asserted that the marginal land along with Master Plan Roads will be utilized by the State Government for designated use of these sectors and also for green buffer zone.

The legality and validity of the purpose of acquisition has been examined in CWP No.16085 of 2012 titled M/s Kataria Construction

Pvt. Ltd. v. State of Haryana and others. For the reasons recorded therein, we find that there is no ground to interfere in the present writ petition.

Apart from the said fact, it may be noticed that the petitioners have not challenged the acquisition even though award was announced on 27.08.2010 and compensation received in the year 2011. Such conduct of the writ petitioner act as estoppel to challenge the acquisition after long lapse of time.

In view of the above and for the reasons recorded in CWP No.16085 of 2012, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

NOVEMBER 5, 2015
'D. Gulati'

(RAJ RAHUL GARG)
JUDGE