

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7612 of 2015

Date of Decision: 24.4.2015

Jagdish and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Rajpal Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. Challenge in this writ petition filed under Articles 226/227 of the Constitution of India, is to the order dated 19.11.2014 (Annexure P-8) passed in compliance with the order dated 6.11.2013 (Annexure P-7) in CWP No. 2309 of 2009 whereby the writ petition was disposed of with the following directions:-

“The petitioners impugn the notifications dated 3.10.2006 and 1.10.2007 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the Act') to the extent of acquisition of their land measuring 4096 square yards comprising in Khasra No.170 and 171 situated within the revenue estate of village Nathupur, Tehsil & District Gurgaon.

Mr. Pattar states that pursuant to the order

dated 17.12.2007 passed by this Court in an earlier writ petition of the petitioners, namely, CWP No. 16396 of 2007, their constructed portion measuring 512 square yards in Khasra No.170 has been released. It is also mentioned that 3 bigha 7 biswa land out of Khasra No.170 and another 1 bigha 4 biswa out of Khasra No.171 was earlier excluded from acquisition while issuing declaration under Section 6 of the Act.

Notwithstanding the above mentioned release of their land/constructed property, learned counsel for the petitioners insists that part of the structure is still under acquisition. Learned State counsel has however, disputed this fact.

In the light of the rival submissions, we dispose of this writ petition with a direction to the respondents to re-demarcate the released and acquired area of the petitioners after giving one week advance notice to them and if it is found that any constructed portion of their house/structure is still under acquisition, the same shall also be released as per Government Policy dated 26.10.2007, provided that such area does not obstruct any vital public utility like road/green belt etc.

Appropriate order shall be passed within a period of three months from the date of receipt of certified copy of this order. The petitioners shall not

raise any fresh construction till the decision is taken by the respondents.”

2. In compliance with the above said order, it was recorded by the Secretary-cum-Director General, Urban Estates Department, Haryana that the area measuring 1 bigha 19 biswas 17 biswansi was acquired for vital public utilities like fire station, Government hospital. Further, a perusal of the directions as noticed hereinabove clearly shows that this Court had directed that the area was to be released only provided that such area does not obstruct any vital public utility like road/ green belt etc.

3. Reliance was placed upon a single Bench judgment of this Court in **Gulshan Kumar v. State of Haryana 1997 (3) RCR (Civil) 505**. That was a case where the Court had come to the conclusion that the State had failed to justify how the vacant area could be used by the Government for the purpose for which it was being acquired, which is not the position in the present case.

4. In view of the above findings recorded by the competent authority, the order dated 19.11.2014 (Annexure P-8) could not be faulted. Accordingly, finding no merit in the instant petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

April 24, 2015
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(REKHA MITTAL)
JUDGE