

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

**CWP No.7839 of 2015
Date of decision: 27.4.2015**

Kishan Chander and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Harkesh Manuja, Advocate for the petitioners.

Ajay Kumar Mittal,J.

1. The petitioners through the present petition under Articles 226/227 of the Constitution of India pray for setting aside the notifications dated 10.2.2011, 8.2.2012 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act"), award dated 30.8.2013 and order dated 22.8.2014, passed by respondent No.1 in compliance to the order dated 3.3.2014 passed by this Court in CWP No.18618 of 2013, Annexures P.1, 3, 4 and 7 respectively.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Notification dated 10.2.2011, Annexure P.1 was issued by the Government of Haryana under Section 4 of the Act to acquire 182.93 acres of land situated in the revenue estate of Village Gohana, Hadbast No.12, Tehsil Gohana, District Sonapat for public purpose namely Transport Nagar and Auto Market, Sector 17A, Gohana. The land of the petitioners was also part of the notification. The

petitioners filed objections under Section 5A of the Act before respondent No.3. One of the objections was that their land was one of the most fertile land in the area. Without considering the objections, the Government issued notification under Section 6 of the Act on 8.2.2012, Annexure P.3. Later on, notices dated 1.8.2013 under section 9 of the Act were served upon the petitioners. Aggrieved thereby, the present petitioners except petitioner No.5 alongwith some other land owners approached this Court through CWP No.18618 of 2013 (*Om Parkash and others vs. State of Haryana and others*). During the pendency of the writ petition, respondent No.3 passed award dated 30.8.2013, Annexure P.4. Vide order dated 3.3.2014, Annexure P.5, the above stated writ petition was disposed of with a direction to the State Government to consider the contentions raised by the petitioners after affording them an opportunity of hearing. Accordingly, the petitioners alongwith their co-sharers filed their detailed representation before respondent No.1. Vide order dated 22.8.2014, Annexure P.7, respondent No.1 declined the claim made by the petitioners regarding release of their land. According to the petitioners, even till date, possession of the land in question is with them. The petitioners also placed reliance on latest guidelines dated 24.1.2011, Annexure P.9 regarding exemption/release of the land after passing of the award. The petitioners also filed representation dated nil, Annexure P.12 to the Government. Having received no response, they have approached this Court through the present writ petition.

3. We have heard learned counsel for the petitioners.

4. This Court in *Om Parkash's* case (supra) directed the authorities to examine the following issues:-

(i) there is an alternative suitable site which can be utilised for

the proposed public purpose and it is owned by the Custodian Department.

- (ii) the petitioners' land is fertile agricultural land whereas some barani land is available in the nearby area;
- (iii) the transport nagar should be developed near the industrial area and not at the present site.

It was urged by the learned counsel for the petitioners that the Secretary-cum-Director General Urban Estates Department, Haryana had failed to address itself to the aforesaid contentions while rejecting the claim of the petitioners.

5. After hearing learned counsel for the petitioners, we do not find any merit in the writ petition. The land had been acquired for building transport nagar which is a public purpose. It could not be said that the acquisition was without any purpose. This Court in ***Deepak Kumar and others vs. State of Haryana and others***, CWP No.21433 of 2014, decided on 16.10.2014 while dealing with the same notifications upheld the acquisition. It was recorded thus:-

“Pursuant to the directions issued by this Court in the earlier writ petition filed by the petitioners, the entire matter has been looked into again and all objections raised by the petitioners have been considered at length. The plea taken up by learned senior counsel for the petitioners is that in view of the decision of the Hon'ble Supreme Court in **Raghubir Singh Sehrawat's** case (supra), (AIR 2012 (SC) 468), the authority should have objectively considered the matter to acquire the land owned by the custodian department which is available and could be utilized for execution of the project. On going through the decision taken by the Secretary-cum-Director General, Urban Estates Department, Haryana dated

22.08.2014, which has been placed on record as Annexure P13, we find that the issue of acquisition of the alternative land owned by the custodian department has been deliberated at length and found not suitable for acquisition for setting up of the Transport Nagar and Auto Market because it is quite away from the proposed urbanization and has also been declared as agricultural zone where Transport Nagar and Auto Market cannot be established. So far as the other issues raised are concerned, those have been dealt with at length considering the expanding urbanization and declaration of controlled area around the town for further development of the town in an integrated manner and cogent reasons have been given for not preparing a land use plan/development plan only for barren land available around the town because that would lead to disjointed land development and the left agricultural land would become an area to be invaded by the unauthorized constructions. In so far as the location of Industrial Model Township near Gohana is concerned, the authority has reached to a conclusion that the said IMT is an independent industrial township of HSIIDC and does not form part of the development plan of Gohana and has nothing to do with development of Transport Nagar and Auto Market in Sector 17-A which is proposed to be set up for physical and economical development of Gohana town and not the IMT because Sector 17-A is located along the peripheral road near the existing Rohtak-Panipat railway line and is also not far away from the proposed industrial sectors. It is also surrounded by green buffer from all four sides which would keep the environmental impact intact because of setting up of Transport Nagar and Auto Market and would not affect the environment of surrounding residential sectors. We are in full agreement with the decision taken by the Secretary-cum-Director General, Urban Estates Department, Haryana which is fully based on the valid reasoning.”

Further, a perusal of the order passed by the Secretary-cum-

Director General Urban estates Department, Haryana shows that the matter has been decided after considering the contentions raised by the petitioners in detail. The relevant observations recorded therein read thus:-

“3. DTP, Sonipat was present during the hearing on behalf of Town and Country Planning Department, Haryana. As the petitioners did not submit the details of the Custodian Department's land, so he was asked to supply this information duly marked on the Development plan of Gohana. He has sent the said information vide letter dated 11.6.2014.

4. The officers present in the hearing have been heard and the request of the petitioner has been examined and subsequently the information supplied by DTP Sonapat has been gone through and I have arrived at the following conclusions:-

- i) The controlled area is declared around a town under the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Act, 1963. The Development Plan of the controlled area is prepared for future expansion of the town in an integrated manner. It is just not possible to prepare a land use plan/development plan only for barren land available around the town as it will lead to disjointed planned development and the left out agricultural land will be invaded by spontaneous unauthorized constructions, which is not desirable at all.
- ii) The Custodian Department's land referred to by the petitioners for using the same for developing the Transport Nagar and Auto Market is located in Agricultural Zone which is quite away from the proposed urbanization. The Transport Nagar and Auto Market cannot be established on this land being non-confirming zone.
- iii) IMT is located quite away from Gohana Town. It is an independent industrial township of HSIIDC having

its own industrial and residential sectors and it does not form part of the development plan of Gohana. It has nothing to do with the development of transport nagar and auto market in Sector 17A, which is specifically meant for the physical and economical development Gohana Town. So far as location Sector 17A is concerned, it is located along the peripheral road near the existing Rohtak-Panipat Railway line, which is quite prominent. It is not far away from the proposed industrial sectors.

iv) From the perusal of the development plan, it is evident that Sector 17A is surrounded by green buffers from all the four sides, which will limit any adverse environmental impact to great extent on the surrounding residential sectors 14, 16 and 18.

In view of the facts mentioned above, no merit was found in the claim of the petitioner for release of their land and the same is declined.”

Moreover, the land has been acquired by the State Government for a public purpose as mentioned above. Learned counsel for the petitioners has not been able to produce any material to substantiate the averments made in the writ petition or show any illegality or perversity in the impugned order. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

April 27, 2015
'gs'

(Rekha Mittal)
Judge