

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

**CWP No.8428 of 2015
Date of decision: 01-05-2015**

Rajbir Singh and others

.....Petitioners

Vs.

Union of India and others

.....Respondents

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

Present: Mr. Ramesh Hooda, Advocate for the petitioners.

Ajay Kumar Mittal,J.

1. Challenge in this petition filed under Articles 226/227 of the Constitution of India is for quashing the notification dated 4.7.2012, Annexure P.9 issued under Section 3A(1) of the National Highway Authority Act, 1956 (in short, "the Act") which was followed by notification dated 13.3.2013, Annexure P.13 under Section 3D(2) of the Act.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners are owners in possession of the land falling in Khasra Nos.141/2 and 146/2/2 measuring 1 kanal 2 marlas in equal shares as per jamabandi for the year 2002-03 of Village Pauli, Tehsil Julana, District Jind. The petitioners had constructed their houses on the land in dispute. Initially, the Director, Town

and Country Planning, Haryana raised the objection that the houses of the petitioners had been constructed in violation of the Punjab Scheduled Roads and Controlled Area Restriction of Unregulated Development Act, 1963. Later, the District Town Planner, Jind considered the matter and passed order of regularization while levying regularization fee. The petitioners deposited the same. Thereafter, respondent No.5 regularized the construction raised by the petitioners. Respondent No.2 issued notification under Section 3A(1) of the Act for widening Rohtak Jind section and land of the petitioners was also acquired. Petitioner Rajinder filed application dated 4.7.2012 raising objection against the acquisition. The Land Acquisition Collector issued notice to the petitioner to appear in person before him. According to the petitioners, there is sharp turn in the road and if the same is made straight then the land of the petitioners will not be acquired. The petitioners were neither heard nor order was communicated to them while rejecting their objections and final notification under Section 3D (2) of the Act was issued. Hence the instant writ petition by the petitioners.

3. We have heard learned counsel for the petitioners.

4. Admittedly, the land was acquired for the purpose of widening Rohtak-Jind section. Under Section 3-A of the Act, the Central Government can acquire land for a public purpose i.e. for building, maintenance, management or operation of a National Highway or part thereof by notification in the Official Gazette. It clearly falls within the domain of the State to decide whether the land which is being acquired for public purpose would suit the said public purpose. It is only when the action of the State is actuated by malafides that the same would be amenable to judicial review.

A Division bench of this Court in *Sampuran Singh and others v. Union Territory, Chandigarh and others*, 2007(1) PLR 349 had held as under:-

“11. We are in full agreement with the learned counsel for the respondents. The State can always exercise its absolute power to acquire land, provided a public purpose exists and it is not necessary that it should succumb to the wishes or willingness of the owner or person interested in the land. The only exception can be when mala fide is shown and then the Courts are bound to protect the individuals from being the victims of such arbitrariness.”

5. In the present case, no material has been shown to substantiate the averments made in the writ petition or to demonstrate malafide on the part of the State in acquiring the land in dispute. No illegality or infirmity has been pointed out in the impugned notifications.

6. Finding no merit in the petition, the same is dismissed.

(Ajay Kumar Mittal)
Judge

May 01, 2015
'gs'

(Rekha Mittal)
Judge