

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

CWP No.15074 of 1993 (O&M)

Date of Decision: 28.07.2016

Smt. Shakuntla Devi and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE DARSHAN SINGH**

1. Whether speaking/reasoned? Yes/No
2. Whether reportable? Yes/No
3. Whether Reporters of local papers may be allowed to see the judgment?
4. To be referred to the Reporters or not?
5. Whether the judgment should be reported in the Digest?

Present: Mr. R.L. Sharma, Advocate,
for the petitioners.

Mr. Rajesh Bhardwaj, Addl. AG, Punjab.

Mr. G.S. Attariwala, Advocate,
for respondent No.2.

SURYA KANT J. (ORAL)

1. The petitioners seek quashing of the Development Scheme sanctioned by the State of Punjab on 29.06.1990 whereby their residential house of comprising the land described in Para No.2 of the writ petition and situated within the municipal limit of Ropar Town, was also acquired. The acquisition was made under the Town Improvement Act, 1922 read with the Land Acquisition Act, 1894 for the development of “44 Kanal and 9 Marla Scheme” floated by the Improvement Trust, Ropar. The precise case of the petitioners at the time when they approached this Court and as on the date is that the above stated Scheme

is meant to develop a residential area and they too have utilized their land measuring 1 Kanal and 14 Marla i.e. less than 1000 sq. yards for that very purpose, by constructing 'A' Class residential house along with other amenities including sewage tank, water supply and servant quarter etc.

2. When this writ petition came up for hearing on 07.12.1993, dispossession of petitioners (i.e. predecessor of petitioners) was stayed. The stay order is thus operative from last more than 20 years. Meanwhile, the Trust has implemented the Scheme over the undisputed acquired area.

3. As regard to the petitioners' claim that they have constructed a residential house, we have seen the old as well as new photographs brought on record and are satisfied that the petitioners' land measuring 1 Kanal and 14 Marla is being used for *bona fide* residential purposes.

4. Since the Scheme for which the land was acquired is also residential in nature, there is no violation of the zoning plan of the area if the petitioners' house along with vacant land is released.

5. It further appears from the stand taken by the Improvement Trust that there is no serious dispute against the release of residential structure but the adjoining vacant area where the petitioners have constructed ancillary services like septic and sewage tank and servant quarter etc., is sought to be acquired. As these amenities are essential for the proper utilisation of the adjoining residential house constructed on a part of the same very piece of land, we have no hesitation in molding that the entire area measuring 1 Kanal and 14 Marla deserves to be released from acquisition. The respondents have failed to make out a

case subject to acquire a part of the residential area and to further allot it for that very purpose.

6. For the reasons afore-stated, the writ petition is allowed and without affecting the sanctioned Scheme, the land of the petitioners, as per the details given in Para No.2 of the writ petition where the residential house along with servant quarter, septic/sewage tank etc. have been constructed, is order to be released.

7. No order as to costs.

(SURYA KANT)
JUDGE

28.07.2016

Bhumika

(DARSHAN SINGH)
JUDGE