

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

[1] Civil Writ Petition No.15591 of 1995.
Date of Decision: September 24, 2016

Har Bhagwan and anotherPetitioners
versus
State of Haryana and othersRespondents

[2] Civil Writ Petition No.15984 of 1995.

Nawal Singh and anotherPetitioners
versus
State of Haryana and othersRespondents

[3] Civil Writ Petition No.16760 of 1995.

Shashi Mangla and anotherPetitioners
versus
State of Haryana and othersRespondents

[4] Civil Writ Petition No.16761 of 1995.

Pushpa Devi and anotherPetitioners
versus
State of Haryana and othersRespondents

[5] Civil Writ Petition No.18434 of 1995.

Lakhpat Singh and anotherPetitioners
versus
State of Haryana and othersRespondents

[6] Civil Writ Petition No.16762 of 1995.

Bhagwat Saroop TayalPetitioner
versus
State of Haryana and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Amit Jain, Advocate and
Mr.Suman Jain, Advocate, for the petitioners.
Mr.R.D.Sharma, Deputy Advocate General, Haryana.
Mr.R.S.Longia, Advocate, for HUDA.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J.

This order shall dispose of the above-captioned writ petitions as in all the petitions challenge is laid to the notifications dated 10.12.1992 and 07.12.1993 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'), respectively, whereby the land within the revenue estate of Palwal, then in District Faridabad, was decided to be acquired for development and utilization for residential Sectors 1 & 2 in the urban estate, Palwal. The lands owned by petitioners, fully described in their respective writ petitions, were also included in the final declaration notified under Section 6 of the 1894 Act.

[2] The aggrieved petitioners have approached this Court and vide different orders passed in all the petitions, further proceedings were stayed. Resultantly, the respondents have not been able to pass the Award till date qua the petitioners' lands.

[3] We have heard learned counsel for the parties at a considerable length and gone through the record.

[4] The foremost contention raised on behalf of the petitioners is that their objections filed under Section 5-A of the 1894 Act have not been adjudicated in accordance with law, rather the Collector adopted totally a mechanical approach while rejecting the same. The other plea taken is that substantial part of their land comprises religious structures which are exempted from acquisition.

[5] The Land Acquisition Collector, Urban Estate, Faridabad has in his written statement categorically averred that wherever the petitioners had filed objections under Section 5-A of the 1894 Act, the same were duly dealt with and spot inspection was also made before deciding the same. He

has further averred that some of the petitioners did not file such objections. In CWP No.15591 of 1995, the Land Acquisition Collector has taken notice of the fact that according to petitioners, their land under acquisition actually belonged to a Mandir, Takashwar Mahadav Ji and there was a 'Pyau' (free drinking water service). The Collector has however countered such claim, for as per the survey report, there was only a very small room and a Varanda which is neither a religious structure nor it is being used for any common purposes. He has further explained as follows:-

“.... However, due regard has been given by the answering respondent to the religious building and accordingly a Hanuman temple situated at some distance from the land in question has been exempted from acquisition. Being secular State, the answering respondent cannot dare to hurt the religious sentiments of any religious group or class.....”

[6] In rest of the cases, the Land Acquisition Collector has taken a categorical stand that the land was lying vacant. It thus emerges out that the objections received under Section 5-A of the 1894 Act from different owners have been separately dealt with by the Collector and after the spot inspection, religious structure wherever found in existence, have been exempted from acquisition. Albeit, some of the land-owners have made an attempt to seek exemption of their land from acquisition by creating temporary religious structures but the Collector has declined to exempt such properties. The record clearly establishes that the objections were duly considered and it is not a case where the Collector pre-judged the issues or did not apply his mind. The first plea taken by the petitioners that their objections were not considered in accordance with law, thus does not find

support from the record. Similarly, their plea that religious structures have

been acquired, cannot be accepted, for the actual and bonafide religious structures have been exempted from acquisition.

[7] For the reasons afore-stated, no fault can be found with the acquisition in question.

[8] Faced with this, learned counsel for the petitioners submits that since no Award has been passed qua their land and meanwhile the new Act, namely, 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the 2013 Act') has come into force w.e.f. 01.01.2014, its Section 24(1) is fully attracted and the compensation in their cases deserves to be assessed in accordance with the provisions of the new Act. We find merit in this contention.

[9] Section 24(1) of the 2013 Act reads as follows:

“24. Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases:---(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,---

- (a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or
- (b) where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed....”

[10] It is evident from the scheme of the new Act that where land acquisition process was initiated under the old Act but no Award could be passed before the new Act came into force, the compensation will have to be

assessed in accordance with the provisions of 2013 Act. The contention of the petitioners re: assessment of compensation under the new Act thus merits acceptance.

Ordered accordingly.

In the light of the above discussion, while acquisition qua the petitioners' land is upheld, but it is directed that the Award shall be passed in accordance with the provisions of 2013 Act.

[SURYA KANT]
JUDGE

September 24, 2016
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No