

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

CWP No.13447 of 1997 (O&M)

Date of Decision: 24.10.2016

Laik Ram through LRs

..Petitioners

Vs.

Union Territory Chandigarh and another

..Respondents

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

Present: Mr.P.C.Dhiman, Advocate for the petitioners.

**Mr.Suvir Sehgal, Sr.Standing Counsel, UT Chandigarh with
Mr.Vishal Sodhi and Mr.Daman Dhir Sharma, Advocates for
the respondent.**

SURYA KANT, J.

The petitioner claims himself to be the priest of Jawala Mukhi Devi Mandir in village Burail, U.T. Chandigarh. He seeks quashing of notifications dated 18.2.1997 and 25.6.1997 vide which land measuring 2 Kanals 11 marlas, including where the main temple is built up, has been acquired. Reliance is placed on the Standing Order notified under Land Acquisition Act, 1894 (for short 'the Act') whereby religious structures are exempted from acquisition.

The other plea taken by the petitioner is that his Objections under Section 5-A of the Act have not been considered in accordance with law.

The Land Acquisition Collector in para 3 of his written

statement, has admitted as follows:

“That para No.3 is wrong and denied. It is further submitted that there is only one Mandir i.e. Jawala Mukhi Devi Mandir which has been constructed in approximately 6 marla land and as per the report of the Patwari (Land acquisition) the rest of the portion i.e. 2 Kanal 5 marla is being used by the petitioner to running his dairy business and for his residential accommodation. Both the dairy sheds and the house of the petitioner have been built separately *pacca* construction from Mandir and that too in the shape of *pacca* concrete construction.”

As regard to the petitioner's plea regarding non-consideration of Objections, the Land Acquisition Collector has averred as follows:

“In the said CWP no Objection under Section 5-A has been received in the office of Land Acquisition Collector as per record. So the question for hearing an objection does not arise. Rest of the para is reproduction of Section 5-A of the Land Acquisition Act, 1894. Specific Proclamation (Munadi) was also made to this effect vide Reports No.213 dated 2.3.97 and No.360 dated 3.7.97.”

So far as the third plea taken by the petitioner that the Administrator UT was not competent to accord sanction to the impugned acquisition, we find that no such plea has been taken in the writ petition and thus, the respondents cannot be taken by surprise.

It may be seen from the above-reproduced stand taken by the Land Acquisition Collector that the petitioner did not file any Objections under Section 5-A of the Act, therefore, question of non consideration of such Objections does not arise. There is no conclusive proof on record that the Objections were filed by the petitioner.

Adverting to the first ground, we find from the photographs

that not one, there are three temples located in the same complex. All the

three temples, thus, deserve to be released from acquisition in such a manner that there is no division of the area to be released it shall remain one compact piece of land with adequate open space to enable the general public to visit the temples. So far as the residence of petitioner is concerned, the authorities are directed to ascertain the correct facts and if it is found that such residence was in existence before issuance of notification under Section 4 of the Act, the same be also released as per the standing Policy.

As regard to the remaining land, it is admitted by the respondents that no award could be passed as meanwhile ad interim stay was granted by this Court. That being the fact situation, provisions of Section 24(1) of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation & Resettlement Act, 2013 (for short '2013 Act') are attracted and it shall be imperative upon the respondents to announce the award after assessing the compensation in accordance with the provisions of Section 24(1) of 2013 Act.

The writ petition stands disposed of in the above terms.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

24.10.2016
Meenu

Whether speaking/reasoned	-	Yes/No
Whether Reportable	-	Yes/No