

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

CWP No.2054 of 2001

Date of decision : 16.02.2016.

Suresh Kumar and another

.....Petitioners

Versus

The State of Haryana and others

..... Respondents

2nd

CWP No.2562 of 2001

Date of Decision : 16.02.2016.

Ram Sarup and another

.....Petitioners

Versus

The State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Ram Chander, Advocate for the petitioners.
Mr. Rahul Dev Singh, Deputy Advocate General, Haryana.
Mr. Pawan Girdhar, Advocate for respondent No.2.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

Both the petitions raise common questions and are, therefore, disposed of by a common order and judgment.

2. The petitioners were the co-owners of land bearing khasra No.3862 and the same was acquired under the Land Acquisition Act, 1894. According to the respondents, they were subsequently given khasra numbers 3862/1, 3862/2 and 3862/3. The petitioners have challenged the notice issued under Section 18 of the HUDA Act, 1977 for unauthorised occupation of a portion of the land. The petitioners challenged the same by

filing the present writ petitions. The respondents filed a reply dated 11.12.1992, in which it is stated that the construction area along with the proportionate area *ad measuring* 4 biswa has been left out from the acquisition by the government and that the award in respect of the remaining land of the petitioners had been made and announced on 21.02.1992. The petitioners, however, state that there has been no demarcation/identification of the 4 biswa that the respondents claim has been left out from the acquisition by the government. They rightly contend that it is necessary for this area to be identified and demarcated. It is also necessary for the respondents to identify/demarcate 4 biswa for according to them the structures in their occupation fall within that area. If that is so, there would be no question for taking action under Section 18 of the HUDA Act, 1977 in respect thereof.

3. In the circumstances, the petitions are disposed of by directing the respondents to have demarcated/identified 4 biswa wherein, according to them, the construction exists. The same shall be done after notice to the petitioners. Needless to assert that the notice issued under Section 18 of the HUDA Act, 1977 would not adversely affect the rights of the petitioners including their occupation in respect of the said 4 biswa. The proceedings in respect of notice under Section 18 of the HUDA Act, 1977 shall commence only after the demarcation/identification of 4 biswa.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

16.2.2016

Manoj Bhutani

MANOJ KUMAR
2016.02.18 15:07
I attest to the accuracy and
authenticity of this document

(ARUN PALLI)
JUDGE