

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10716 of 2014 (O&M)

Date of Decision: 09.12.2016

Balwinder Singh & Anr.

... Petitioners

VS.

Union of India & Ors.

... Respondents

CWP No.17189 of 2015 (O&M)

Hem Raj & Ors.

... Petitioners

VS.

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

1. *Whether speaking/reasoned?*

Yes

2. *Whether reportable?*

No

3. *Whether Reporters of local papers may be allowed to see the judgment?*

Yes / No

4. *To be referred to the Reporters or not?*

Yes / No

5. *Whether the judgment should be reported in the Digest?*

Yes / No

Present: Mr. BB Sethi, Advocate;
Mr. Sanjeev Patiyal, Advocate
for the petitioners

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Shekhar Verma, Advocate;
Mr. Vishal Sodhi, Advocate for UT Chandigarh

Ms. Deepali Puri, Advocate for MC Chandigarh

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP No.10716 of 2014; 17189 of 2015 as both the writ petitions are cross-cases challenging the acquisition in respect of land comprising khasra no.30//35 situated in the revenue estate of village Maloya, Hadbast No.13, UT, Chandigarh which has been acquired by the Chandigarh Administration vide notifications dated 27.10.2006 & 25.10.2007 issued under Sections 4&6 of the Land Acquisition Act, 1894 followed by Award No.598 dated 12.10.2009. The writ-petitioners in both the cases are claiming themselves to be the owners of the acquired properties.

(2) The Chandigarh Administration has in its reply/affidavit taken a specific plea that the acquired land was recorded as *Shamlat Deh Hasab Taksim Har Do Patiat Masabhi Andron Patiat Hasab Rasad Zar Khewat*, namely, it was a 'common land' of the village which vests in the Gram Panchayat. On this premise, the respondents have questioned the very *locus standi* of the petitioners in approaching this Court.

(3) The respondents have further explained that the possession of acquired land has already been taken on 07.04.2010 and compensation amount to the tune of ₹ 2,61,47,813/- has been deposited with the Reference Court on 26.03.2010 as per Section 31 of the Land Acquisition Act, 1894. It is also pointed out that the title dispute, arising out of a civil suit filed by some of the non-proprietors of village Maloya wherein this Court in RSA No.150 of 1996 held that the land in dispute is 'common land' and thus vests in the Gram Panchayat, is now *sub judice* before the Hon'ble Supreme Court.

(4) Having heard learned counsel for the parties, we are of the considered view that both the writ petitions deserve to be dismissed. We say so for the reason that firstly the acquisition was finalized in the year 2009. The petitioners have chosen to challenge the same after a delay of 5/6 years. There is no explanation whatsoever for the inordinate delay.

(5) In the instant case, the possession of the land has been entrusted to the Chandigarh Housing Board for construction of one room tenement for the Marginalized Sections of Society and thousands of such flats have already been constructed and handed over to eligible allottees. It is not expedient or desirable at this juncture to obstruct the process of regulated development being carried out by the authorities.

(6) In the light of the subsequent developments and third party rights having been created, we are satisfied that the writ petitions at this belated stage are not maintainable. Somewhat similar view has been taken by the Hon'ble Supreme Court in *Swaika Properties Pvt. Ltd. vs. State of Rajasthan & Ors., (2008) 4 SCC 695.*

(7) Secondly, it appears that the petitioners have no *locus standi* to question the acquisition. As on date, they are not the owners of the acquired properties. Even if the proprietors are found to be the true owners by the Hon'ble Supreme Court in the pending case, at best they will be entitled to seek compensation which has already been deposited by the Chandigarh Administration with the Reference Court.

(8) Thirdly, the acquisition has been made for a *bona fide* public purpose and it is not the allegation of the petitioners that there is any procedural violation while carrying out the same.

(9) For the reasons afore-stated, we do not find any merit in these writ petitions and the same are accordingly dismissed.

(Surya Kant)
Judge

09.12.2016
vishal shonkar

(Sudip Ahluwalia)
Judge