

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11308 of 2015
Date of Decision:-17.3.2016.

Mahender Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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?**

Present: Mr. Vikram Singh, Advocate for the petitioners.

Ms. Kirti Singh, DAG, Haryana.

SURYA KANT, J. (ORAL)

1.) The petitioners are residents of Village Badshahpur, Tehsil and District Gurgaon. The Gram Panchayat of their village appears to have allotted small residential plots to them in the year 1974 as they belong to landless communities. They had constructed houses also. The above-mentioned land was acquired by the State Government vide notifications dated 15.4.2011 and 10.4.2012 issued under Section 4 and 6 of the Land Acquisition Act, 1894 (for short 'the 1894 Act'). Unfortunately, the petitioners did not file their objections under Section 5-A of the 1894 Act and, thus, the

acquisition was allowed to attain finality. Thereafter, they came to this Court through **CWP No.6589 of 2013** challenging the acquisition of their residential sites. The said writ petition was disposed of vide order dated 26.3.2013 with a direction to the Authorities to ascertain the correct facts and in the event of acquisition of the land in question, to consider their claim for allotment of alternative sites in accordance with Government policy.

2.) In deference to those directions, the Estate Officer-II HUDA, Gurgaon passed the order dated 17.5.2013 (P-7), the operative part of which reads as follows:-

*“I have gone through the entire case and examined the documents placed on this file. The land on which the houses of the petitioner have been constructed, is required for public purpose i.e. the right of way of southern peripheral road etc. This land has been acquired in due course of law and provisions of land acquisition Act, 1894. **The entire matter will be referred to the competent authority for taking proper decision in the matter of allotting alternative sites in lieu of the houses of the petitioner on the acquired land as per Govt./HUDA policy.** Till the final decision taken by the competent authority, no further action to demolish the existing houses will be taken by this Office.”*

(emphasis applied)

3.) The aggrieved petitioners are again before this Court reiterating that they are entitled to retain their houses and/or

alternative sites be allotted to them.

4.) The Land Acquisition Collector has filed the written statement maintaining that the petitioners did not file objections under Section 5-A of the 1894 Act and the land has already been acquired and handed over to HUDA for its utilization for public purposes. The construction of houses is also disputed.

5.) Be that as it may, keeping in view the fact that the Authorities have acknowledged the claim of the petitioners for allotment of alternative sites in lieu of their houses/sites as per State/HUDA Policy, we dispose of this writ petition with a direction to the Chief Administrator/Administrator, HUDA, Gurgaon to verify the petitioners' claim and if found entitled, to submit the proposal for allotment of alternative sites within a period of four months. The State Government is directed to take its final decision within two months thereafter.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

March 17, 2016.

sandeep sethi