

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

**CWP No.11940 of 2016**

**Date of decision: 3.6.2016**

**Pawan Kumar Sharma and another**

**.....Petitioners**

**vs.**

**State of Haryana and others**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL**

**HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

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

Present: Mr. Sanjiv S.Thakur, Advocate for the petitioners.

**Ajay Kumar Mittal,J.**

1. The petitioners pray for quashing the notifications issued under section 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act"), dated 15.12.2006 and 14.12.2007 and the order dated 19.5.2016, Annexure P.12 passed by respondent No.3 rejecting their claim for release of the land, Annexures P.1, P.2 and P.12 respectively.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Petitioner No.1 had earlier filed CWP No.5035 of 2008 before this Court impugning the above mentioned notifications for acquisition of land situated in the revenue estate of Village Bhayan Pur, Hadbast No.74, Sector 36A, Tehsil and District Rohtak, for a public purpose, namely public, semi public and residential under the Haryana Urban Development Authority Act, 1977 by the Haryana Urban Development Authority. Petitioner No.1 had constructed a shop, temple and residence over the land. The respondents released 1 biswa land of

petitioner No.1. Consequently, the said writ petition was dismissed vide judgment dated 30.10.2008, Annexure P.3. Petitioner No.1 thereafter filed review application which was also dismissed vide order dated 23.1.2009. The SLP filed by petitioner No.1 was also dismissed vide order dated 31.10.2012, Annexure P.4. In the meantime, petitioner No.1 had transferred his shop in the name of petitioner No.2 vide registered sale deed dated 15.10.2007. Some of other similarly situated persons had also impugned the same notifications by way of CWP No.4585 of 2009 and other connected petitions on the ground of various reasons including discrimination. The said writ petitions were disposed of vide judgment dated 29.8.2013, Annexure P.5 with certain directions to the respondents. It is not disputed that covered area measuring 40'x22' including two rooms, kitchen and one toilet used as residence by the petitioners has been released but the petitioners cannot properly utilise and enjoy the part of the land released as after the construction of proposed road and green belt, there will be no approach road to the land of petitioner No.1. Petitioner No.1 submitted representation dated 5.10.2013 to respondent No.1 for release of land in parity with other persons whose land was either released or was under consideration for release. Respondent No.1 did not take any action on the said representation. Thereafter, the petitioners filed CWP No.24958 of 2014 to seek parity in view of judgment dated 29.10.2013 in CWP No.4585 of 2008. The said writ petition was dismissed as premature vide judgment dated 14.11.2013, Annexure P.6 observing that the petitioners can only seek parity in case some affirmative action is taken by the respondents in favour of similarly placed land owners. According to the petitioners, they are in possession of the land. They have not received the compensation. The respondents have not deposited the amount with the reference court. It is lying with the Land Acquisition Officer. Thus, provisions of Section 24 of the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act 2013 (in short, "the 2013 Act") would apply. The owner of the land adjoining the land of the petitioners sought quashing of the entire acquisition

proceedings including the notifications challenged in the present writ petition by filing CWP No.21140 of 2014 in which notice of motion was issued and status quo was ordered to be maintained vide order dated 13.10.2014. Thereafter, the petitioners filed CWP No.9737 of 2015 for quashing the notifications under sections 4 and 6 of the Act. Vide order dated 7.10.2015, Annexure P.10, the said writ petition was disposed of with a direction to the respondents to pass a speaking order after affording an opportunity of hearing to the petitioners. Pursuant to the said order, the petitioners made a detailed representation dated 4.12.2015, Annexure P.11 to respondent No.3. Respondent No.3 passed order dated 19.5.2016, Annexure P.12 rejecting the claim of the petitioners for release of the land. Hence the instant writ petition by the petitioners.

3. We have heard learned counsel for the petitioners.

4. In pursuance to the order passed by this Court dated 7.10.2015 in CWP No.9737 of 2015 filed by the petitioners, their case was considered by respondent No.3 and on examination of the matter, order dated 19.5.2016, Annexure P.12 has been passed wherein it has been categorically recorded that the constructed portion of the land i.e. 1 biswa land was released whereas the balance land was vacant. The possession of the vacant land was handed over to Haryana Urban Development Authority, Rohtak. The land was required for Rohtak-Gohana proposed road widening and 60 meter green belt. The amount of compensation was deposited in the account of the Land Acquisition Collector. It has been further recorded that total 66.58% of the payment has already been disbursed. The relevant operative part of the order reads thus:-

“3 bigha-8 biswa land of the petitioner was notified for acquisition under section 4 for development of public, semi public and residential Sector 36A, Rohtak. The petitioner filed objection under section 5A and constructed 00 Bigha-01 Biswa temple land was released. The balanced land is vacant at

site. The possession of the land was taken by EO HUDA, Rohtak vide rapat No.273 dated 30.11.2009. As per planning the land is required for Rohtak-Gohana proposed road widening and 60 meter green belt. The petitioner has not taken the compensation amount. The amount is deposited in the account of LAC. Total 66.58% payment has been disbursed. Hence it is recommended that the land of the petitioner may not be released.”

5. Learned counsel for the petitioners has not been able to show that the order dated 19.5.2016 passed by respondent No.3 is erroneous. Consequently, even the claim of the petitioners under section 24(2) of the 2013 Act cannot be sustained as the possession of the land has already been taken over by HUDA and substantial compensation has been disbursed. Thus, finding no merit in the petition, the same is hereby dismissed.

**(Ajay Kumar Mittal)**  
**Judge**

**June 03, 2016**  
**‘gs’**

**(Raj Rahul Garg)**  
**Judge**