

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14569 of 2016 (O&M)

Date of Decision: 25.07.2016

Jitender Gupta

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE DARSHAN SINGH

Present: Mr. Roopak Bansal, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) This writ petition is the second attempt of the petitioner for quashing of the notifications dated 10.01.1983 and 07.12.1983 (P1 & P3) issued under Section 4&6 of the Land Acquisition Act, 1894 (in short, 'the 1894 Act') followed by an award dated 21.09.1986 (P4) and supplementary award dated 25.03.1988 (P5) whereby the land of Village Jharsa, Tehsil and District Gurgaon measuring 273.90 acres was acquired which included land measuring 122 kanal 6 marla of village Jharsa, Tehsil and District Gurgaon. The petitioner's land measuring 1 kanal 13 marla comprising Khasra No.39/7/2/2/2 (0-16) and 39/8/1/2/3 (0-17) i.e. 1033 sq.yards was also part of the above-stated acquisition.

(2) It is not in dispute that the land was acquired for the development and utilization of residential and commercial Sector 31 & 32-A of Haryana Urban Development Authority in the Urban Estate of Gurgaon. These Urban Sectors have been actually developed by the Government agency, namely, HUDA.

(3) The petitioner earlier approached this Court challenging the acquisition of his plot by way of CWP No.10165 of 1992 which was

authorities to release petitioner's land if it did not fall on 30 meter road as the land of the owners of adjoining land had been ordered to be released.

(4) The State of Haryana preferred SLP before the Hon'ble Supreme Court which was allowed and after setting aside the order of this Court, the case was remanded. Thereafter no *ad interim* stay was ever granted to the petitioner against dispossession till the writ petition was finally disposed of on 27.05.2015 with liberty to him to make a representation for the alleged lapse of acquisition in view of Section 24(2) of the 2013 Act. The representation made by the petitioner to this effect has been turned down by the Authority vide impugned speaking order dated 16.03.2016 (P10), giving rise to this writ petition.

(5) Before advertng to the petitioner's contention, it would be useful to reproduce the following reasons assigned in the speaking order:-

“In view of the position explained above, Zonal Committee is of the view that claim of the petitioners u/s 24(2) of the RFCT LARR Act, 2013 does not seems to be justified because the claimed land bearing khasra No.39//4/2, 7/2, 8/1 of Village Jharsa, Gurgaon which is claimed in the writ petition falling in Sector 32, Gurgaon was notified along with 283.13 acres land u/s 4 on dated 10.01.1983. Land measuring 9.23 acres was left out u/s 5A and land measuring 273.90 acres was notified u/s 6 on dated 07.12.1983. As per award statement, award for the land bearing Khasra No.39//4/2/2/7(0-0), 7/2/2/2 (0-16), 8/1/2/3 (0-17) i.e. total area (1-13) was announced vide award No.10 dated 21.09.1986. Total land area 255.76 acres was included in the award and physical possession handed over to HUDA vide Rapat No.34 dated 21.09.1986. The compensation amount of the land in question has not been taken by the land owner. The awarded land in

question has already been planned, for the purpose of green belt and Green belt is developed.

In view of the facts mentioned above, it appears acquisition proceedings have attained finality because out of 273.90 acres land which was notified, 255.76 acres land stands awarded and planned and developed as per the Layout plan of Sector 31-32, Gurgaon. Hence, the provisions of Section 24(2) are not attracted in this case as possession was taken by HUDA vide Rapat Roznamcha No.34 dated 21.09.1986 and subsequently planned for green belt along NH-8. Therefore the committee does not recommend for release of land to the petitioner.”

(emphasis applied)

(6) We have heard learned counsel for the petitioner at a considerable length who has reiterated that since the respondents had released the adjoining land in purported compliance to the orders passed by this Court in some other writ petition. We find, on perusal of that order that the constructed portion of the acquired land was ordered to be released which obviously did not fall within the alignment of the road or greenbelt.

(7) It is undeniable that Sector 31 & 32-A have been fully developed by HUDA. The construction of road along with greenbelt is a public service of paramount importance and the public at large cannot be made to suffer merely because the petitioner did not withdraw the compensation amount which has been otherwise disbursed to most of the landowners. It is not denied by the petitioner that other landowners have not withdrawn the compensation amount. In a fact situation where the most of the acquired land has since been utilized for the development of residential Sectors and most of the landowners have withdrawn the compensation

amount, the petitioners cannot stand alone and obstruct the completion of project.

(8) The plea of discrimination cannot be entertained for the reason that the photograph (P12) of petitioner's construction consists of one room with temporary roof-shed which might be at best used by the chowkidar etc. There is no residential house constructed by the petitioner. In these circumstances, the petitioner cannot claim parity with his neighbour whose house was ordered to be released. That apart, as noticed above, the issue pertains to utilization of the land for greenbelt and road.

(9) We thus do not find any ground to interfere with the impugned order or the acquisition in question. Needless to say that after construction of road and development of the greenbelt, if a part of the petitioner's acquired land remains unutilized and such left out land is not required for any public purpose, the petitioner shall be at liberty to seek release of such land and the competent authority shall consider his plea objectively and in accordance with the Government policy.

(10) Ordered accordingly.

(Surya Kant)
Judge

25.07.2016
vishal shonkar

(Darshan Singh)
Judge