

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18958 of 2014 (O&M)

Date of Decision: 04.07.2016

Shakuntla & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE DARSHAN SINGH**

Present: Mr. RK Rana, Advocate for the petitioners
Ms. Palika Monga, DAG Haryana
Mr. GN Malik, Advocate for respondent No.6

SURYA KANT, J. (Oral)

(1) The petitioners are stated to be residents of Kachha Beri Road, Near Radha Swami Satsang Bhawan, Tehsil and District Jhajjar. They seek quashing of the notifications dated 07.07.2007 and 06.07.2012 issued under Section 4&6 of the Land Acquisition Act, 1894 (in short, 'the 1894 Act') (P4 & P6, respectively) as well as the Award dated 04.07.2014 (P7) passed pursuant thereto.

(2) Vide the impugned acquisition process, land measuring 38K - 1M comprising Khasra No.486 within the Municipal limits of Jhajjar allegedly in possession of the petitioners and owned by Haryana Wakf Board has been acquired.

(3) The foremost contention of the petitioners is that they have raised residential houses/structures on the leased out land and such structures are liable to be exempted/released from acquisition in terms of the Government policy dated 26.10.2007. Photographs of the houses along with proof of residence and electricity bills have been attached.

(4) Separate written statements have been filed by Haryana Wakf

respondents No.1 to 5. While the official respondents have taken a preliminary objection that the petitioners have no *locus standi* to challenge the subject acquisition as neither they are owners of the acquired land nor there is any proof of their tenancy prior to initiation of acquisition process. It is further averred that the prescribed procedure in accordance with the 1894 Act was followed and the representative of the Wakf Board – the owner of the subject-land was duly heard by the Land Acquisition Collector before issuing the impugned Notifications. It has further been averred that on the date of the award itself i.e. 04.07.2014, the possession of the land was handed over to Haryana Urban Development Authority for whom the acquisition was made. It is further explained that the petitioners who claim themselves to be the “sub-lessees” did not file objections under Section 5A of the 1894 Act.

(5) Respondent No.6 – the Haryana Wakf Board in its written statement has denied possession of the petitioners over Khasra No.486. The claim of the petitioners that the said khasra No. was leased out to one Ramesh Chander s/o Ram Sarup or that they have taken the land from him as sub-lessees has been expressly controverted by the Wakf Board, as according to it, the land was leased out to Ramesh Chander for agricultural purposes for a period of three years and not for construction of residential houses and that the lease period had already expired.

(6) Having heard learned counsel for the parties and after going through the documents on record, we are satisfied that the claim of the petitioners for the release of alleged structure/houses is untenable in law. The land is admittedly within the Municipal limits and was agricultural in nature as is evident from the entries made in the revenue record. It was

leased out by Wakf Board for agricultural purposes for three years and the lease period stood expired much before the petitioners are said to have entered into any sub-lease. Further, the only document issued by the Wakf Board, Haryana on which the petitioners have placed reliance (P1) is dated 20.07.2011 i.e. after the issuance of Section 4 notification. From the photographs, it does appear that the houses said to have been constructed by the petitioners may not have been constructed at the site which is an agricultural land as no such houses were found during the survey conducted before issuing Section 4 notification. The writ petition raises various disputed questions of facts including the legal relationship between the petitioners and Wakf Board.

(7) No case to interfere with the impugned acquisition at the instance of the petitioners thus is made out.

(8) Dismissed.

(Surya Kant)
Judge

04.07.2016
vishal shonkar

(Darshan Singh)
Judge