

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19878 of 2014 (O&M)

Date of Decision: 28.11.2016

Om Pati & Anr.

... Petitioners

VS.

State of Haryana & 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. Vikram Singh, Advocate for the petitioners

Mr. Ravi Dutt Sharma, DAG Haryana

Ms. Gitanjali, Advocate for

Mr. Raman B Garg, Advocate for HUDA

SURYA KANT, J. (Oral)

(1) The petitioners while questioning the notifications dated 23.08.2007 and 21.08.2008 issued under Sections 4&6 of the Land Acquisition Act have further assailed the order dated 02.09.2014 (P13) vide which their claim for the release of their residential house has been partly rejected.

(2) The case of the petitioners is that they have constructed their residential house as depicted in the photographs in khasra No.12/1/2 and khasra No.8/12, 1/2. However, the respondents have released 7 marla land out of khasra No.8//11/2/2 (0-4) and 12/1/1 (0-3). In this manner, a part of the residential house is still under acquisition.

(3) The respondents have filed the written statement in which the fact regarding part release of the house has been apparently acknowledged

“Out of the total claimed land measuring 5 kanals 15 marlas, the petitioners have received compensation for land measuring 5 kanals 8 marlas. Remaining 0 kanal 7 marlas land comprised of khasra No.8//11/2/2(0-4), 12/1/1(0-3) has been released vide speaking order dated 02.09.2014 (Annexure P-13) passed by the Secretary-cum-Director General, Urban Estate Department, Haryana.”

(4) It may be true that the petitioners have received compensation as averred by the respondents but the fact is that the land has been acquired for development of residential Sector and they too have constructed a residential house at site. The Photographs reveal it to be an A-class construction. The Government policy admittedly contemplates to release the residential structure found at the time of Section 4 notification. The respondents have admitted the fact that the petitioners sought release of the house in the very first opportunity while filing objection under Section 5-A of the 1894 Act.

(5) Though the claim of the petitioners that their residential house exists on the plot measuring 6 kanal 14 marla appears to be exaggerated, they are surely entitled to the release of entire constructed portion along with reasonable open space for the proper enjoyment of it.

(6) For the reasons afore-stated, we allow this writ petition in part; direct the Land Acquisition Collector, the District Town Planner and the Estate Officer, HUDA, Jind to visit the site and get the residential house of the petitioners demarcated. It is further directed that the entire constructed portion along with some reasonable open space shall be released whereas the

vacant land which can be independently utilized for the purpose of acquisition may be retained. If the petitioners have received compensation in respect of the portion now to be released, they shall be liable to refund the compensation amount along with interest @ 9% per annum. The authorities shall do the needful within three months from the date of receipt of certified copy of this order.

(7) Ordered accordingly.

(Surya Kant)
Judge

28.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge