IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20096 of 2014
Date of decision:17.3.2016

Rajpal

……Petitioner

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?
3. Whether the judgment should be reported in the Digest?

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

Ms. Palika Monga, DAG, Haryana.

Ajay Kumar Mittal, J.

1. Prayer in this petition is for quashing the order dated 26.6.2014, Annexure P.7 passed by respondent No.2 and notifications under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act). Further prayer has been made for a direction to the respondents to release the land/constructed house of the petitioner as has been done in the case of other similarly situated persons.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner is owner

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in possession of land bearing Khasra No.43//17 measuring 8 kanals in Village Khayra, Tehsil and District Mohindergarh over which he has constructed 18 rooms, latrine bathroom, tubewells, cattle shed etc. He is residing on this land for the last more than 20 years. The petitioner has also installed electricity connection on this land. On 23.2.2007, Annexure P.2, respondent No.1 issued notification under section 4 of the Act proposing to acquire land of Villages Khayra, Paiga and Mohindergarh Town including the land of the petitioner for a public purpose namely for the development of residential and commercial Sector 10, Mohindergarh for the Haryana Urban Development Authority, respondent No.3. The petitioner filed objections under Section 5A of the Act inter alia pleading that he had no other land/plot for residential purpose His land was situated in thickly populated area and was fully developed. Thereafter, notification under Section 6 of the Act was issued on 20.2.2008, Annexure P.4. According to the petitioner, since as per policy of the State, the constructed area prior to the issuance of notification under Section 4 was not to be acquired, he filed representation dated 12.4.2013, Annexure P.6 to the authorities for releasing the land/constructed area owned by him. Having received no response, the petitioner filed CWP No.24696 of 2013 which was disposed of by this Court vide order dated 12.11.2013 to consider the case of the petitioner for release of structures which were found in existence at the time of issuance of notification under section 4 of the Act. Vide order dated 26.6.2014, Annexure P.7, the case of the petitioner was accepted qua a part of the house i.e. only 650 square yards area whereas claim on the remaining property had not been considered as the house of the petitioner was constructed in

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1450 square yards. According to the petitioner, the impugned action of the respondents is contrary to the report dated 13.2.2014, Annexure P.8 submitted by the Land Acquisition Collector, Gurgaon. Hence the instant writ petition.

3. A written statement was filed by Land Acquisition Collector, Urban Estates, Haryana inter alia stating that land bearing Khasra No.43//17 measuring 650 square yards being constructed area had been released by the competent authority. The award was announced on 19.2.2010 and possession was handed over to the representative of HUDA on the same day. On these premises, prayer for dismissal of the petition was made.

4. We have heard learned counsel for the parties.

5. A perusal of the record shows that in compliance with the directions issued by this Court vide order dated 12.11.2013 in CWP No.24696 of 2013, the respondents have decided the representation submitted by the petitioner vide order dated 26.6.2014, Annexure P.7 whereby decision has been taken to release around 650 square meters area (21.30 m x 30.48 m) accommodating both the residential houses along with open proportionate space including some well grown trees as shown in the plan attached with JSIC report in favour of the petitioner. Learned counsel for the petitioner had challenged the said order primarily on the ground that the proportionate area had not been left out, relying upon the report of the Land Acquisition Officer, Gurgaon dated 13.2.2014, Annexure P.8.

6. We are not impressed with the contention raised by the learned counsel for the petitioner. A perusal of report Annexure P.8 submitted by the Land Acquisition Officer, Urban Estate Haryana, shows that there was a

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total area of 1450 square yards in which 1/3rd area was covered and 2/3rd was lying vacant. In the light of the said report, 1/3rd area was less than 500 square meters whereas the area left out is 650 square meters. Therefore, it cannot be said that the proportionate vacant area has not been left out as contented by the learned counsel for the petitioner.

7. In view of the above, we find no error in the impugned order passed by the respondents, warranting interference by this Court under Article 226 of the Constitution of India. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

March 17, 2016 **(Raj Rahul Garg)**
'gs' **Judge**

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