

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.19033 of 2016.

Date of Decision: September 16, 2016

Jodha Singh and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

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

**HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

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Present: Mr.Manwinder Singh Dalal, Advocate, for the petitioners.

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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?

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**Surya Kant, J.** (Oral)

The petitioners have laid challenge to the Notifications dated 12.12.12013 and 21.10.2014 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') (since repealed), respectively, read with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013 (for short, 'the 2013 Act'). Vide the above-said notifications 3 marla land owned by all the petitioners has been acquired for the public purpose of construction of a road from Dhanouri-Barta-Nansingh Wala in district Jind.

We have heard learned counsel for the petitioners.

One of the contention raised is that the impugned acquisition is contrary to the mandate contained in Section 24 (1) of the 2013 Act and that the shops constructed by the petitioners on the roadside deserve to be protected and released from acquisition in terms of the Government Policy.

We have given our thoughtful consideration to the submissions

(1) of the 2013 Act contemplates that where acquisition process has been initiated under the old Act of 1894 but no Award was passed, in that eventuality, the Award shall be passed in accordance with the provisions of 2013 Act. In the instant case, such a procedure has been meticulously followed by the Competent Authority. A plain reading of Section 6 notification issued after 01.01.2014 unveils that the provisions of 2013 Act have been applied. Similarly, the Award dated 02.11.2015 (P-7) is also based upon the provisions of the new Act of 2013 and additional benefits admissible to land losers have been duly granted under the said Award. There is thus no violation of Section 24(1) of the 2013 Act. As regard to the shops constructed by the petitioners, it is undeniable that the provisions of Punjab Scheduled Roads and Controlled Areas Act, 1963 expressly prohibits raising of such construction within 30 meters outer limit on either side of the road. Under the Act, it is mandatory to obtain prior permission of the authorities before raising such construction. In the case in hand, neither the petitioners have obtained permission nor their construction is more than 30 meters away from the road. The photograph on record reveal that the shops are just abutting the road itself. Such an unauthorized and illegal construction cannot be legitimized or ordered to be released from acquisition in terms of the Government Policy.

No case to interfere with the impugned acquisition is made out.  
Dismissed.

[SURYA KANT]  
JUDGE

September 16, 2016  
*mohinder*

[SUDIP AHLUWALIA]  
JUDGE

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |