

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28105-2013

Date of Decision: July 25, 2016

M/s Lions Social Charitable Trust

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present: Mr.Suman Jain, Advocate
for the petitioner.
Mr.RKS Brar, Addl.AG, Haryana.
Mr.Lokesh Singhal, Advocate
for HUDA.

.....

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?***

SURYA KANT, J.

The petitioner is stated to be a Charitable Trust. It took the land mentioned in para 2 of the writ petition on 99 years' lease by way of registered lease-deed dated 04.02.2009. The land is situated in the revenue estate of Hodal, District Palwal. The petitioner thereafter applied for Change of Land Use for setting up a middle standard school and having obtained such permission from the State Government, a middle level school known as 'Spectrum International School' has been set up at the site. The photographs of building reveal that it is class 'A' construction comprising

all modern facilities. The total land on which the school has been set up is stated to be 30K 13M.

It is alleged by petitioner's counsel that a big chunk of land measuring 100 acres was earlier sought to be acquired in the year 1995 for expansion of the existing grain market at Hodal but that acquisition did not materialise. Thereafter, fresh notification was issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') on 03.05.2011 proposing acquisition of same chunk of land which includes the land leased out to petitioner. No notification under Section 6 of the 1894 Act was issued and in this manner Section 4 notification of the 1894 Act was allowed to lapse.

Meanwhile the petitioner -Trust obtained Change of Land Use permission and has set up the school.

On 10.12.2013 State of Haryana again issued Section 4 notification under the 1894 Act and on the very next day notification under Section 6 read with Section 17(2)(c) of the 1894 Act was also issued invoking 'urgency clause' for the same public purpose for which notification under Section 4 dated 03.05.2011 was admittedly allowed to lapse. The award was passed on 18.12.2014.

The petitioner is aggrieved by the acquisition of its land and school building, hence this petition.

One of the plea taken by the petitioner is that there existed no

urgent circumstances to justify the invoking of power under Section 17(2) (c) of the 1894 Act. The land owners have been deprived of the only remedy available to them under the repealed statute, namely, filing of objections under Section 5-A of the 1894 Act.

Learned Additional Advocate General, Haryana, states that instead of going into this contention, let the petitioner submit a representation to the State Government for reconsideration of the matter regarding acquisition of its land and building, either for its release and/or exchange of some other land having proper access from the main road so that the petitioner-Trust can re-construct the school at the new site. He assures that firstly the desirability of releasing the acquired land alongwith structure will be considered and only if it is found that the 'public purpose' cannot be achieved without acquisition of the land and school building, then the allotment of another piece or three acres land in exchange thereof will be considered.

We have no reason to doubt that the State Government will earnestly look into the entire issue in such a manner so as to achieve the public purpose with an effort to save the school building unless it is found impossible to implement the project without demolishing it.

Let appropriate decision be taken within six months and till then dispossession of the petitioner shall remain stayed.

The representatives of the petitioner may be heard in person

before taking the decision.

Disposed of accordingly.

(SURYA KANT)
JUDGE

July 25, 2016
meenu

(DARSHAN SINGH)
JUDGE