

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.26598 of 2014 (O&M)
Date of decision: April 12, 2016**

Anand and others

.....Petitioners

State of Haryana and another

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

PRESENT: Mr. Adarsh Jain, Advocate for the petitioners.
Mr. Saurabh Magoo, AAG, Haryana.

Ajay Kumar Mittal,J.

1. The petitioners pray for quashing the notifications dated 7.2.2008 and 6.2.2009 issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act"), Annexures P.4 and P.5 respectively. whereby land situated in the revenue estate of Faridpur, Tehsil and District Faridabad owned and possessed by the petitioners has been intended to be acquired for development and utilization as

residential and commercial Sectors 76, 77 and 78, Faridabad.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Case of the petitioners is that they are owners in possession of land measuring 27 kanals 15 marlas situated in the revenue estate of Faridpur, Tehsil and district Faridabad. The petitioners have constructed residential house consisting of 10 room, kitchen, bathroom, toilet and small shed and a tin shed alongwith a handpump. The present petition is being filed only in respect of land measuring 3 kanals. The petitioners seek release of only the land under the residential house which abuts the road. The petitioners are residing with their families since before the year 2003. The State of Haryana issued notification under section 4 of the Act on 7.2.2008, Annexure P.4 intending to acquire land including the land of the petitioners for development and utilization as residential and commercial Sectors 76, 77 and 78 Faridabad. According to the petitioners, the respondents had not published the notification in two daily newspapers having circulation in the locality. As notification did not come to the notice of the petitioners, no objections under section 5A of the Act could be filed by them. Notification under section 6 of the Act was issued on 6.2.2009, Annexure P.5. However, while issuing notification under section 6 of the Act, major land had been released from acquisition but land of the petitioners had been acquired. The petitioners came to know about acquisition proceedings in the last week of January 2011 and they submitted objections. They submitted

that they had their residential houses constructed on the land in dispute.

Having received no response, they filed the instant writ petition.

3. A written statement has been filed on behalf of respondent No.2, it has been inter alia stated that notification under section 4 of the Act pertaining to land measuring 544.24 acres including the area of Village Faridpur, Tehsil and District Faridabad for the purpose namely residential and commercial Sectors 76, 77, 78 Faridabad was published in the official Gazette on 7.2.2008 and the same was got published in two daily leading newspapers in two languages i.e. Indian Express (English) dated 19.2.2008 and Amar Ujala (Hindi) dated 16.2.2008. Similarly, due publication was given to the notification under section 6 of the Act. In the affidavit filed by Land Acquisition Collector, Urban Estate, Faridabad dated 13.1.2016, it was stated that land measuring 5.749 acres had been left out of acquisition by the government. Declaration under section 6 of the Act for the remaining land measuring 67.891 acres of Village Faridpur was issued in the official Gazette on 20.2.2009.

4. We have heard learned counsel for the parties.

5. Learned counsel for the petitioners submitted that residential house of the petitioners exists on the land in dispute. Learned counsel further submitted that Haryana Urban Development Authority has no planning of the area and land of other revenue estate qua the same acquisition has been released and therefore, there cannot be any planned development.

6. It is the admitted position that the land of the petitioners was acquired vide notification under section 4 of the Act dated 7.2.2008, Annexure P.4 for a public purpose namely for development and utilization as residential and commercial Sectors 76, 77 and 78, Faridabad. Notification under section 6 of the Act was issued on 6.2.2009, Annexure P.5. Due publication was given to the notifications in the daily newspapers and Official Gazette. Learned counsel has not been able to show any material that the house existed on the land in dispute and that there was any construction prior to 7.2.2008 when the impugned notification under section 4 of the Act was issued. The respondents in their written statement in para 22 thereof have categorically stated that the land of the petitioners was entirely vacant at the time of issuance of notification under Section 4 of the Act which fact has not been controverted by the petitioners. Further the submission that the acquisition is bad for want of proper planning and development of the area, equally has no merit. Once the land had been acquired for a public purpose, we do not find any justification to accept the prayer of the petitioners. It clearly falls within the domain of the State to decide whether the land which is being acquired for a public purpose would suit the said public purpose. It is only when the action of the State is actuated by malafides that the same would be amenable to judicial review which has not been shown in the present case. A Division Bench of this Court in *Sampuran Singh and others v. Union Territory, Chandigarh and others*, 2007(1) PLR 349 had held as under:-

“11. We are in full agreement with the learned counsel for the respondents. The State can always exercise its absolute power to acquire land, provided a public purpose exists and it is not necessary that it should succumb to the wishes or willingness of the owner or person interested in the land. The only exception can be when mala fide is shown and then the Courts are bound to protect the individuals from being the victims of such arbitrariness.”

7. In view of the above, no ground is made out for interference in writ jurisdiction under Articles 226/227 of the Constitution of India. No illegality or infirmity has been pointed out by the learned counsel for the petitioners in the impugned notifications. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

April 12, 2016

(Raj Rahul Garg)
Judge

‘gs’