

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

CWP-7082-2015 (O&M)

Date of Decision: September 28, 2016

Bishamber Dayal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

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|----|---|---------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/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. |

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Present: Mr.Sandeep Khunger, Advocate
for the petitioner.

Ms.Palika Monga, DAG, Haryana.

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SURYA KANT, J.

[1] Two plots of petitioner's land, one measuring 92'x160' and another 95'x160', both abutting Sirsa-Dabwali National Highway No.10, were acquired vide Notifications dated 21.05.2010 and 20.05.2011 issued under Sections 4 & 6 of the Land Acquisition Act, 1894, respectively. Petitioner filed objections but the same were turned down. He then approached this Court by filing CWP No.11522 of 2013, which was taken up alongwith bunch of other writ petitions and was disposed of on 04.09.2013 (Annexure P6) with following directions:-

“We have heard learned counsel for the parties and gone through the record. It is not in dispute that some of the properties have since been released from acquisition. The question that arises for consideration is whether the vacant plots

of petitioners can still be utilised for the notified or any other *bona-fide* public purpose? If the authorities on re-survey of the area form an opinion that the plots owned by the petitioners are still needed for a public purpose, they may reject the petitioners' claim but in that event, the petitioners shall be entitled to the benefit of Government policy notified on 09.11.2010. However, if the authorities are of the view that the 'public purpose' can be achieved even after releasing the plots of the petitioners, let appropriate orders be passed within a period of four months from the date a certified copy of this order is received.”

[2] In purported compliance of the above reproduced directions, the respondents have passed a self speaking order dated 01.07.2014 (Annexure P9), whereby claim of the petitioner has been rejected. Common reasons have been assigned for rejection of claim of all the writ petitioners, which read as under:-

“Thus, in compliance of the orders of Hon'ble High Court the case of petitioner has been examined. The land of the petitioners abuts Sirsa-Dabwali road and falls in chunk of land earmarked for EWS/ Ashiana Scheme/ Housing Board. Therefore, the land is required for development of houses for poor sections of the society. As per details given in the above Para, the land of petitioners was reportedly vacant at the time of issuance of notification u/s-4.”

[3] The aggrieved petitioner has again approached this Court. This time he has given up his claim for the release of his one plot measuring 95'x160', as it admittedly falls on the alignment of 60 meter wide road of Sector 10, Urban Estate, Dabwali. He restricts his claim qua the other plot measuring 92'x160' only.

[4] We have perused the 'Lay-Out Plan of Sector 10, Dabwali (Annexure P13). It is an admitted fact that on the right and left side of

petitioner's plot, all the properties have been released. The released properties are duly marked as 'R'. Only petitioner's plot, which is sandwiched between the released properties, is sought to be acquired.

[5] We have no reason to doubt that single plot of the petitioner, surrounded by released properties, can hardly serve the public purpose of acquisition. It also exhibits hostile discrimination as land owners of left and right released properties have been benefitted and only the petitioner claim has been turned down. Assuming that petitioner has constructed the property after issuance of Section 4 Notification, which he is seriously contesting, we are satisfied that plot measuring 92'x160' of the petitioner deserves to be released on the ground of parity.

[6] Ordered accordingly.

[7] The writ petition is thus allowed and it is directed that petitioner's plot depicted as measuring 92'x160' be released subject to his depositing the development charges or other statutory charges, which may be leviable.

[8] This order shall not amount to regularisation of unauthorised construction, if any, raised at the site.

[9] Disposed of.

(SURYA KANT)
JUDGE

September 28, 2016
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(SUDIP AHLUWALIA)
JUDGE

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