

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

CWP No.897 of 2015 (O&M)

Date of Decision: 01.08.2016

Moti Ram and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

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

Present: Mr. N.C. Kinra, Advocate,
for the petitioners.

Mr. R.D. Sharma, DAG, Haryana.

SURYA KANT J. (ORAL)

1. The petitioners have laid challenge to the notifications dated 07.07.2011 (P-14/1) and 06.07.2012 (P-18) issued under Section 4 and 6 of the Land Acquisition Act, 1894 (in short 'the Act') whereby land measuring 118.43 acre situated within the revenue estate of Jhajjar has been acquired for the development of Residential Sector 9-A in the Urban Estate of Jhajjar. The afore-stated acquisition includes the land described in Para No.3 of the writ petition, in which the petitioners are co-sharers.

2. The petitioners have laid challenge to the acquisition primarily on three counts. Firstly, it is urged that their objections under Section 5-A of the Act were heard by one Satbir Singh, Land Acquisition Collector but the order rejecting those objections and consequential report to the State

Government was sent by his successor-in-interest, namely, Suresh Kumar. On this premise, it is urged that the petitioners have not been given a fair and just opportunity under Section 5-A of the Act.

3. The second plea is that the Land Acquisition Collector did not have sufficient funds at his disposal to pay compensation to the land owners at the time of passing the award. The acquisition proceedings are claimed to have vitiated in law on this count. Thirdly, the acquisition is alleged to be bad in law as the claim filed by the petitioners under Section 9 of the Act regarding the nature of the land and measurements of the acquired area, were not decided.

4. Learned State counsel, on the other hand, maintains that all the three objections are either contrary to record and legally untenable.

5. We have heard learned counsel for the parties and gone through the record. So far as the first plea taken by the petitioners is concerned, State counsel has produced the official record which has been perused by learned counsel for the petitioners also. The original record reveals that the notice of hearing was issued to the petitioners by Subhash Mehta, the then Land Acquisition Collector, who heard them in person and the same officer passed the order rejecting their objections and sent the report to State Government.

6. Since the original record does not substantiate the petitioners' allegation, we do not find any merit in their first contention. As regard to the second plea, we have gone through the averments made in Para No. 8(ii) of the writ petition. The petitioners have nowhere averred that they demanded compensation and that the Land Acquisition Collector failed to release the same for want of sufficient funds at his disposal. In the absence

of any specific allegation to this effect, it cannot be held that the Land Acquisition Collector did not have sufficient funds at his disposal to honour the award passed by him. Similarly, the third plea taken by the petitioners, namely, non-consideration of their objections under Section 9 of the Act regarding the nature of land or measurements of acquired land would not vitiate the acquisition itself. These two factors are relevant for determination of the compensation amount and have no bearing on the mandatory procedure which was required to be followed for carrying out lawful acquisition under the old act.

7. For the reasons afore-stated, we do not find any merit in the writ petition, which is accordingly dismissed.

(SURYA KANT)
JUDGE

01.08.2016

Bhumika

(SUDIP AHLUWALIA)
JUDGE