

RA-CW-459-2015

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CM-15066-CWP-2015 IN CWP-15139-2010 with

RA-CW-464-2015

CM-15253-CWP-2015 IN CWP-4499-2010

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

DECIDED on 01.04.2016.

RA-CW-459-2015

CM-15066-CWP-2015

IN CWP-15139-2010

NEERA SAPRA AND ORS V/S STATE OF HARYANA AND ORS

2.

RA-CW-464-2015

CM-15253-CWP-2015

IN CWP-4499-2010

DARSHAN LAL MEHNDIRATTA AND OTHERS

VS.

STATE OF HARYANA AND OTHERS

CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL

HON'BLE MR. JUSTICE RAJ RAHUL GARG

**Present: Mr. Tushar Sharma, Advocate
for the applicant (in RA-CW-459-2015) and**

**Mr. Vikas Singh, Advocate
for the applicant (in RA-CW-464-2015)**

RAJ RAHUL GARG,J.

CM No. 15066 of 2015 in RA No. 459 of 2015

Allowed as prayed for.

CM No. 15253 of 2015 in RA No. 464 of 2015

Allowed as prayed for.

RA-CW-459-2015 IN CWP-15139-2010

RA-CW-464-2015 IN CWP-4499-2010

**The aforesaid review petitions have been filed in writ petitions
No. 15139 and 4499 of 2010 respectively.**

**The petitioners of both the aforesaid review petitions have
sought review of the judgment dated 27.08.2015 rendered in aforesaid two
writ petitions.**

Heard.

The petitioners have sought review of the impugned judgment

dated 27.08.2015 on the ground that respondents did not require 12 acres of land for augmentation of the existing sewerage treatment plant. Vide notification dated 20.07.2009 issued under Section 4 of the Land Acquisition Act, 1984 (for short 'the Act'), the respondent-State had sought to acquire 37 acres 5 kanals and 6 marlas for setting up a 50 MLD sewerage treatment plant in Yamunanagar but 27 acres 5 kanals and 6 marlas were notified under the notification dated 05.03.2010 under Section 6 of the Act and thus 10 acres of land was released from the acquisition. In the aforesaid project, 50 MLD STP was being settled up in an area of just 27 acres 5 kanals and 6 marlas whereas in the present case 40 MLD STP is being sought to be set up in about 35 acres of land. Much stress was laid on the report of Consultant hired by the respondent-department i.e. CH2MHILL (Annexure P47), land measuring 6.5 acres was required for augmenting the capacity of the existing STP from 25 MLD to 40 MLD and out of that also, some land can be recovered from the existing plant and the rest can be acquired. As such, as per counsel for the petitioners that in no case 12 acres land can be said to be required for the purpose. By way of mistake only, the Government was read the requirement as 12 acres whereas in fact it was 6.5 acres.

Counsel for the applicants also pointed out that the bare reading of the calculation sheet shows that there have been two errors apparent on the face of it, in the calculation made by the Consultant. Referring Annexure A2, the errors in the report of the Consultant were explained. It was contended that the figure of additional land required got erroneously changed from 6.5 acres to 12 acres. The figure of 12 acres has come up due to an error in the calculation of area requirement by the Consultant which also the Consultant has corrected while preparing the FSR and if the correct calculation is taken into consideration, the requirement of additional area comes down to 1.2 or 1.4 acres only.

It was also contended by learned counsel for the petitioners that the land falling within the *abadi* area acquired for STP was released by the respondent-State vide notification dated 08.04.2008. As such, the subsequent acquisition of land adjoining the land earlier released is bad in

law and is liable to be set aside. In the case in hand, the land under acquisition is adjoining the *abadi* area as has been specifically stated in the writ petition as the land falls within the Municipal Limits, therefore, it cannot be acquired for setting up of an STP. As such, the impugned judgment dated 27.08.2015 is required to be reviewed.

The aforesaid arguments raised by learned counsel for the applicants have been duly dealt with in detail in the impugned judgment. Regarding suitability of land for acquisition for the augmentation purpose, the fact that both the parties were summoned at the spot before deciding their objections and after hearing them and in view of the spot inspection, District Revenue Officer made recommendations to the principal Secretary, Public Health, to acquire land in question on 07.05.2010, clearly pointing out that the land in question is more suitable for the purpose of augmentation of sewerage treatment plant. The recommendations is to the following effect:-

“(i).....In the reply of the department, it has clearly been mentioned that the facility of approach road to the acquired land already exist and is suitable. Secondly it is not possible to divert the exiting sewer line having a depth of approximately 26 feet, if this land to be acquired is not handed over to the department. This land is adjacent to the land of existing STP 25 MLD. In case the department shift the augmentation scheme existing STP to another land then it will be difficult to divert the existing sewer line and huge amount of expenditure will be incurred by diverting the sewer line, to construct the separate approach road and use of augmentation with the existing structure will not be suitable.

(ii). That the land which is under acquisition is adjacent to the existed Sewer Plant (STP) 25 MLD. In case present capacity of the plant is not

increased as per present requirements, then it would spread various diseases in the area which will be very dangerous to the life of human beings and it will also pollute Western Yamuna Canal. There is immediate need to expand the existing STP 25 MLD to 40 MLD capacity. The land which has been shown public utility land in Master Plan of Yamuna Nagar is situated other side of the Nalah. Thus, pipe line cannot be laid down in the Nalah, which is a big nala, it is about 25 to 80 feet wide. In the rainy season, dangerous flow comes in this nala and it can destroy the valuable machinery of STP and other financial loss could be caused to the Govt.”

Thus, in view of the aforesaid recommendations of the District Revenue Officer, it cannot be said that the Court did not take into consideration the factum of suitability of acquisition of land for augmentation of the existing sewerage treatment plant at Yamuna Nagar, Haryana.

The next argument raised by learned counsel for the applicants that acquisition of 12 acres is illogical and arbitrary particularly when as per Consultant only 6.5 acres of land was required for the purpose; has also been duly considered in detail while rendering the impugned judgment. The requirement of acquisition of 12 acres of land has been duly considered by the Department after going through the detailed facts. From the affidavit of Sh. Prem Singh, Executive Engineer dated 14.06.2013, the discussion regarding need for acquisition for 12 acres of land for the purpose of augmentation was considered at length which is as follows:-

“3. That the department after going through the detail facts and the requirement of the land for the expansion of Waste Water Treatment Plan existing Capacity of 25 MLD to 40 MLD for the year 2040

and also for future expansion and taking into consideration the detail project report, additional land required for the project is 12 Acre, which is reflected at page 22 & page No.193 of Final Detail Project Report approved by the State Govt. & submitted to Govt. of India. The page 22 and page 193 are annexed with this affidavit as Annexure A-1 & A-2.

The matter was duly discussed in the committee constituted for the purpose of acquisition of land. Thus the requirement of the land is genuine and necessary for sewerage treatment plant to be constructed. The department has already supplied all the documents to the petitioner in this regard. The requirement of additional land for treatment plant as per augmentation proposed in the detail project report is 12 Acres because additional Secondary clarifiers, Sludge drying beds, Sludge pump station, Splitter box, Sludge storage, Recycle pump station, Aeration/ Blower Building, Trickling Filters, Food sump, in-plant pump station, Modified pond inlets and outlets, Chlorine and sodium bisulfate, chlorine contract tank are required to be constructed for Aug. of Sewerage Treatment Plant from 25 MLD to 40 MLD reflected in the map annexure. The requirement of acquiring land is bonafide as the same was discussed thoroughly in the meetings before acquisition of land. The acquisition of the land is in the welfare of inhabitants of the resident of Yamuna Nagar city and the public at large keeping in view of the expansion of Abadi and for the betterment and management of the sewerage

disposal after proper treatment.”

The question of alternative land was discussed and rejected in the impugned judgment. Finally, it was found that it is the department i.e. Acquisitioning Authority who has to take a view as to what extent of the land is required for acquisition.

As a result, since all the arguments raised by learned counsel for the applicants by way of review petitions have already been dealt with in detail in the impugned judgment, therefore, finding no ground to review the impugned judgment. The aforesaid both the review applications are dismissed.

Photocopy of this order be placed on the file of other connected case.

(M. JEYAPPAUL)
JUDGE

(RAJ RAHUL GARG)
JUDGE

01.04.2016.
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