

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

CWP No. 10913 of 1995 (O&M)

Date of decision: 21.8.2017

Joginder Singh

.. Petitioner

vs

State of Punjab and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present: Mr. M. L. Saggar, Senior Advocate with
Mr. Rohit Joshi, Advocate, for the petitioner.
Ms. Anju Arora, Additional Advocate, General, Punjab.
Mr. R. S. Modi, Advocate, for the Improvement Trust.

Rajesh Bindal, J.

The petitioner has approached this Court impugning the acquisition of land owned by him. Notification under Section 36 of the Punjab Town Improvement Act, 1922 (for short, 'the Act') was issued on 23.5.1973. The land was acquired for Model Town Extension Part-II Development Scheme. The total area sought to be acquired was 400 acres. The acquisition was challenged by father of the petitioner and other family members by filing CWP No. 3855 of 1975 Puran Singh and others vs State of Punjab and others, mentioning khasra numbers which were owned by them. However, inadvertently khasra number 43 having area of 18 biswas could not be mentioned in that petition. The writ petition was dismissed by this Court on 9.3.1978. The matter went up to Hon'ble the Supreme Court in Civil Appeal No. 3158 of 1979- Smt. Bhagwan Kaur and others vs State of

Punjab and others, which was disposed of on 29.10.1979 giving permission to the appellants therein to file objections against the acquisition. Thereafter, 63 acres of land was released from the acquisition. Entire land owned by the petitioner and other family members was released except a small part which was forming part of khasra number 43, as the same was not mentioned in the earlier writ petition.

The contention raised by learned counsel for the petitioner is that the small portion of land is of no use to the Improvement Trust as land around that has not been acquired. It is on account of inadvertent mistake in the earlier writ petition filed by father of the petitioner and other family members that khasra number 43 could not be mentioned, otherwise acquisition of entire land owned by them had been challenged. After the matter was decided by Hon'ble the Supreme Court, in the objections filed under Section 38 of the Act, khasra number 43 was specifically mentioned therein, however, still the same was acquired and not left out of acquisition, though entire other portion of land was not acquired. The portion of land falls close to the railway line. The writ petition was filed when the respondents sought to take possession of the land.

Learned counsel for the Improvement Trust does not dispute the aforesaid factual matrix of the case.

After hearing learned counsel for the parties and considering the facts noticed above, we are of the view that the present writ petition deserves to be allowed. In the earlier round of litigation when the predecessors-in-interest of the petitioner had challenged the acquisition, entire land owned by them had been mentioned, however, inadvertently khasra number 43 was not mentioned. After dismissal of the writ petition

and the Letters Patent Appeal filed in this Court, the matter went to Hon'ble the Supreme Court where the Civil Appeal was disposed of on 29.10.1979 giving liberty to the appellants therein to file objections to the acquisition, which were to be disposed of within four weeks. In the objections filed by the petitioners, khasra number 43 has been specifically mentioned. Other portion of land mentioned in the objections was not finally notified for acquisition, as a result of which only small part of land owned by the petitioner bearing khasra no. 43 having an area of 18 biswas was acquired. This part of the land is close to the railway line and it is of no use for the Improvement Trust considering its location and the scheme.

For the reasons mentioned above, the acquisition pertaining to land forming part of khasra no. 43, measuring 18 biswas owned by the petitioner, deserves to be quashed. Ordered accordingly.

(Rajesh Bindal)
Judge

21.8.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned
Whether Reportable

Yes/No
Yes/No