

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

CWP No. 12526 of 2005 (O&M)

Date of decision: 25.4.2017

Suraj Bhan and another

.. Petitioners

VS

State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal  
Hon'ble Mr. Justice Harinder Singh Sidhu**

**Present:** None for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

**Rajesh Bindal, J.**

The petitioners filed the present writ petition seeking a direction to the respondents for grant of compensation for utilizing their land without any right.

It is pleaded case of the petitioners that notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), proposing to acquire the land owned by the petitioners was issued on 29.8.2000, which was followed by notification dated 1.3.2001 issued under Section 6 of the Act. After the petitioners came to know about the acquisition of land, they filed objections on 21.5.2001, which were dismissed on 12.6.2001. CWP No. 10010 of 2001 was filed by the petitioners challenging the acquisition, however, the same was dismissed vide order dated 7.8.2002, noticing the fact that even the award had been announced by the Collector on 28.3.2002. Special Leave to Appeal (Civil) No. 17259 of 2002 against the aforesaid judgment filed by the petitioners

was disposed of by Hon'ble the Supreme Court on 11.10.2002, giving liberty to the petitioners to file Review Application. Even the Review Application was dismissed on 13.12.2002. The order was again challenged before Hon'ble the Supreme Court vide Civil Appeal No. 468 of 2004, which was disposed of on 27.1.2004, remitting the matter back to this Court with the observations that the matter be placed before a different Bench.

Thereafter, the writ petition was allowed vide judgment dated 23.9.2004 and the notification dated 29.8.2000 and 1.3.2001 were quashed. Immediately, thereafter the petitioners got a legal notice issued to the respondents on 27.10.2004, claiming damages. The claim for damages has been made for dispossessing the petitioners from their land without there being valid acquisition.

Learned counsel for the State while not disputing the facts as noticed above and as pleaded in the writ petition submitted that after the quashing of the notifications by this Court vide judgment dated 23.9.2004, the land of the petitioners was again notified for acquisition. Notification under Section 4 of the Act was issued on 29.11.2004, which was followed by notification under Section 6 of the Act issued on 24.8.2005. Award was announced by the Land Acquisition Collector on 17.1.2006. The petitioners filed objections under Section 18 of the Act. The matter was referred to the learned Reference Court, who vide award dated 1.12.2009, enhanced the compensation. Part of the land was acquired where notification under Section 4 of the Act was issued on 25.2.2005, which was followed by notification under Section 6 of the Act dated 3.2.2006.

Learned counsel for the State further submitted that a petition claiming damages for use and occupation of land prior to the acquisition thereof, is not maintainable, as this jurisdiction lies with the Collector. For the purpose reference was made to judgments of this Court in RFA No. 3334 of 2006 Surender Kumar and others vs State of Haryana and others, decided on 10.12.2010 and RFA No. 1761 of 2002 State of Haryana and another vs Braham Singh and others, decided on 6.1.2011.

Heard learned counsel for the State and perused the paper book.

As far as the facts regarding acquisition of land of the petitioners in the first round, as noticed above, are not disputed by learned counsel for the State. The land was acquired for the purpose of Extension of Mangala Direct Minor from R.D. 16100-27000 (Tail) situated in villages Mangala and Madhosinghana (Hadbast Nos. 92 and 95, respectively), Tehsil and District Sirsa. After the acquisition was quashed by this Court vide judgment dated 23.9.2004, it was again notified under Section 4 of the Act on 29.11.2004 and the acquisition proceedings were completed. The petitioners raised issue regarding amount of compensation. The same was decided by the learned Reference Court while assessing the compensation payable to the petitioners. The award of the learned Reference Court was challenged before this Court, which is pending consideration before this Court.

The issue sought to be raised is regarding damages for use and occupation of the land prior to the acquisition thereof. As finally acquisition proceedings were quashed and as claimed by the petitioners, the possession had been taken by the respondents at that stage, the claim

for damages for use and occupation of land by the State in case they are dispossessed prior to the acquisition was considered by Hon'ble the Supreme Court in Special Land Acquisition Officer vs Karigowda and others (2010) 5 SCC 708, and it was opined that for any period prior to issuance of notification under Section 4 of the Act, no amount can be awarded. However, the issue can be raised before the Collector where it has to be claimed while leading evidence. The aforesaid judgment was followed by this Court in Surender Kumar and Braham Singh's cases (supra).

In view of the aforesaid enunciation of law, the landowners shall be entitled to compensation from the date of their dispossession till the issuance of notification under Section 4 of the Act. For the purpose they can file application before the Collector for claiming damages. In case the petitioners are able to establish that possession of the land owned by them was taken prior to the issuance of notification under Section 4 of the Act, the Collector shall consider the evidence led and assess the compensation payable to them in accordance with law.

As none has represented the petitioners at the time when the case was taken up for hearing, let a copy of the order be sent to them.

The petition stands disposed of accordingly.

(Rajesh Bindal)  
Judge

25.4.2017  
vs

(Harinder Singh Sidhu)  
Judge

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No