

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

CWP No. 17047 of 2007 (O&M)

Date of decision : 16.11.2017

Joginder Singh

.. Petitioner

versus

The State of Haryana and others

.. Respondents

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

Present: Mr. Vikram Singh and Mr. Hardeep S. Dhillon, Advocates,
 for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Shivendra Swaroop and Mr. Manoj Dhankhar, Assistant
Advocate Generals, Haryana.

Mr. Lokesh Sinhal, Advocate, for HSIIDC.

Rajesh Bindal, J.

The petitioner has filed the present writ petition challenging acquisition of land.

Learned counsel for the petitioner submitted that notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short “the Act”), were issued on 11.7.2006 and 16.7.2007, respectively. The petitioner claimed that he is owner to the extent of 229 square yards of land comprising in khasra No. 3264, which was purchased vide registered sale-deed dated 1.3.2005.

Learned Counsel for the petitioner argued that it is a case of hostile discrimination, if considered in the light of the fact that the State had released substantial portion of land where either construction was there or

even the plots were vacant. The petitioner has been discriminated. He had constructed house on the plot in question. The construction was existing on the acquired land of the petitioner prior to issuance of notification under Section 4 of the Act.

On the other hand, learned counsel for the State submitted that the petitioner is owner of 23.10 square yards of land only, however, he has raised construction on area more than that. However, he has not disputed that the construction existed prior to issuance of notification under Section 4 of the Act on the plot in question.

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

In the present case, notifications under Sections 4 and 6 of the Act were issued on 11.7.2006 and 16.7.2007, respectively. The petitioner's claim that he is owner of 229 square yards of land is not correct. Rather he owns only 23.10 square yards of plot, on which construction was existing prior to issuance of notification under Section 4 of the Act. It is admitted that he has not been paid the compensation for the acquired land.

It is not in dispute that in number of cases where construction existed prior to the issuance of notification under Section 4 of the Act, the State had released the land from acquisition. In some cases of its own, whereas in some cases after the aggrieved party approached this Court and the matters were remitted back for re-consideration.

As the petitioner was found to be owner of land only to the extent of 23.10 square yards on which construction admittedly existed prior to issuance of notification under Section 4 of the Act, acquisition of area to that extent deserves to be quashed. Ordered accordingly. The petitioner

shall be permitted to retain only that much area as per the demarcation. The construction beyond that area shall be removed by the petitioner within a period of three months. On failure the State shall be entitled to do the needful at the cost of the petitioner.

For the reasons mentioned above, the acquisition of land measuring 23.10 square yards owned by the petitioner is quashed.

The writ petition stands disposed of.

(Rajesh Bindal)
Judge

16.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No