

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

CWP No. 13843 of 2016 (O&M)

Date of decision: 10.7.2017

Darshan Lal Kapoor and others .. Petitioners

VS

State of Haryana and others .. Respondents

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

Present: Mr. N. C. Kinra, Advocate, for the petitioners.
Mr. Ankur Mittal, Additional Advocate General, Haryana.

Rajesh Bindal, J.

The petitioners, whose land was acquired, have filed the present writ petition praying for quashing of order dated 19.5.2016 passed by the Zonal Administrator, HUDA-cum Additional Director, Urban Estate, Rohtak, rejecting the representation filed by the petitioners for release of the land. Challenge has also been made to the notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the Act') on 15.12.2006 and 14.12.2007, respectively, and the award dated 30.11.2009, announced by the Land Acquisition Collector.

Learned counsel for the petitioners submitted that the land owned by the petitioners was sought to be acquired by the State by issuing notification under Section 4 of the Act for use by the Haryana Urban Development Authority, for Public, Semi Public and Residential purposes. It was followed by notification under Section 6 of the Act dated 14.12.2007. The petitioners filed CWP No. 4585 of 2008, challenging the acquisition.

The writ petition was disposed of vide order dated 29.8.2013. The stand taken by learned counsel for the parties was noticed by this Court in para 11 of the judgment, wherein while upholding the acquisition, it was noticed that in case any constructed or vacant land on the sector dividing road has been left out of the acquisition, the petitioners are also to be treated similarly. The plea taken is that large area in the sector was released where the builders were granted licenses. The petitioners subsequently filed CWP No. 14342 of 2015, which was disposed of on 20.7.2015, directing the Director General, Department of Urban Estates, Haryana, to decide the representation made by the petitioners. Despite there being a clear case of discrimination, the representation of the petitioners was rejected vide impugned order. He further submitted that the scheme to widen the road for which the land was acquired has been abandoned, hence, the land is no more required by the State. The acquisition be quashed.

On the other hand, learned counsel for the State submitted that the land of the petitioners fall on the Rohtak-Panipat Road. It has large traffic leading from city. Even if at present the widening is not done, but in case the land of the petitioners only is released at this stage, to take care of increasing traffic widening of road at a later stage may not be possible even though other portion of land may be in possession of the State, the acquisition being complete. Learned counsel for the State, on instructions from Ms. Neelam, District Town Planner, Rohtak, submitted that no land or constructed area of any person falling along with the road which may be required for widening of road has either been left out of acquisition or released from the acquisition, hence, the plea of discrimination is not made out. Merely because the acquired land has not been utilised immediately is

no ground to challenge the acquisition again on any ground, once it has already been upheld by this Court. The only issue left open was regarding discrimination, which is not there.

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

In the case in hand, the acquisition was initially challenged by the petitioners by filing CWP No. 4585 of 2008. This Court while deciding the aforesaid writ petition upheld the acquisition subject to the condition that in case there is any discrimination qua the petitioners with reference to the land located on the sector dividing road, the petitioners shall be treated equally. Relevant para from the aforesaid judgment is extracted below:-

(11). So far as the acquisition of vacant plots of the petitioners like in CWP No.4585, 5901, 5902 of 2009 etc. are concerned, their grievance to the extent of releasing the adjoining properties of affluent persons though such properties are also needed for widening of the road and development of green-belt is quite justified and if the facts are to be true, shall attract Article 14 of the Constitution. However, having regard to the categorical stand taken before us by the respondents that properties of none of the alleged affluent persons are exempted and their land/property(ies) shall also be utilized for the declared public purpose, we conditionally uphold the acquisition of petitioners' properties with a direction that unless the property(ies) of all the owner(s), whether constructed or vacant, located on the same Sector dividing road are also utilized for the said public purpose, the property(ies) of the petitioner(s) shall not be utilized. To say it differently, all the equally placed persons shall be treated equally and in a non-discriminatory manner.

Thereafter, the petitioners preferred CWP No. 14342 of 2015

again challenging the acquisition with a prayer that unutilized land of the petitioners be released from the acquisition. The writ petition was disposed of with a direction to the competent authority to decide the representation dated 8.5.2015 filed by the petitioners by passing a speaking order. The aforesaid representation was filed about two years after the earlier writ petition filed by the petitioners was disposed of. The representation filed by the petitioners was rejected by the competent authority vide order dated 19.5.2016. It has been noticed in the impugned order that the land in question is required for Rohtak-Gohana Road widening and 60 meters green belt, hence, it cannot be released from acquisition. Definite stand taken by learned counsel for the State, as noticed above, is that the land vacant or with construction located on the same sector dividing road has neither been left out from acquisition nor released after acquisition. This was the only ground left out with the petitioners, as while deciding CWP No. 4585 of 2008, this Court upheld the acquisition of land. Once the plea of discrimination is not made out, we do not find any ground to interfere in the present writ petition. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

10.7.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned
Whether Reportable

Yes/No
Yes/No