

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

CWP No.17566 of 2014 (O&M)

Date of decision : 3.10.2017

Punita Kadian

.. Petitioner

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Sanjeev Kodan, Advocate, for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana with
Mr. Manoj Dhankhar, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

The petitioner has approached this Court seeking to challenge acquisition of land owned by her, which is forming part of Khewat No.1153, Must. No./Killa No.174/04, measuring 10 marlas. Notifications under Section 4 and 6 of the Land Acquisition Act, 1894 (for short, '(the Act)') were issued on 7.7.2011 and 6.7.2012, respectively. The case set up by the petitioner is that she had constructed house on the plot in question, much prior to issuance of notification under Section 4 of the Act. She had even filed objections under Section 5A of the Act stating therein about construction of house. Despite that the land was acquired. Award was announced by the Land Acquisition Collector (for short, 'the Collector'). The petitioner filed CWP No.24838 of 2013 titled as Punita Kadian vs. State of Haryana and others in this Court and the same was disposed of on 13.11.2013 referring the matter back to the authorities to be dealt with in terms of the earlier order passed by this Court in CWP No.15617 of 2012—Jitender and another vs. State of Haryana and others, decided on 11.7.2013, whereby a bunch of petitions were disposed of directing the authorities to

carry out fresh survey and see whether the land/house of the petitioners therein could be released without any detrimental effect to the planned development of the area. Thereafter, the land on three sides of the petitioner's house was released from acquisition. However, for the plot of the petitioner, award was announced on 4.7.2014. Learned counsel for the petitioner further submitted that at the time of re-survey, the authorities found that the house constructed by the petitioner was existing.

On the other hand, learned counsel for the State, submitted that the objections filed by the petitioner under Section 5-A of the Act were considered and recommendation was made for acquisition of land, as it was required for planned development. However, he did not dispute the fact that re-survey was conducted pertaining to the land of the different landowners, who filed writ petition earlier in this Court. For a large chunk of land award was not announced. Part of the aforesaid portion of land is surrounding on three sides of the plot of the petitioner. He further did not dispute the fact that at the time of re-survey, constructed house of the petitioner was found at the spot, though it was locked.

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

In the earlier round of litigation, the case of the petitioner and number of other cases, whose land was acquired, were referred back to the State for re-consideration after carrying out re-survey. Thereafter, some portion of land was left out of acquisition, as no award was finally passed for the same. As per the site plan produced by learned counsel for the State, plot of the petitioner is surrounded on three sides with the land for which no award was passed. Though the stand sought to be taken is that release of

land of the petitioner will affect 24 mtrs. wide road, however, the plan does not suggest the same. Before the plot of the petitioner, portion of that land is earmarked for High School and thereafter is the plot of the petitioner. The petitioner had even raised issue regarding constructed house existing on that land when she filed objections under Section 5-A of the Act. Even at that stage there was no objective consideration of the matter. At the time of re-survey house was found to be constructed on the plot but stated to be locked at that time.

Considering the aforesaid factual matrix, in our opinion, for the acquisition of land, especially after the matters were remanded back for re-consideration, there had been no proper application of mind. Hence, the acquisition of land of the petitioner deserves to be set aside.

Ordered accordingly.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

3.10.2017
sharmila

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