

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

CWP No. 23227 of 2015 (O&M)

Date of decision : 20.7.2017

Sube Singh and others

.. Petitioners

versus

State of Haryana and others

.. Respondents

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

**Present: Mr. Vikram Jeet Singh, Advocate for
Mr. Aman Pal, Advocate, for the petitioners.**

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Rajesh Bindal, J.

Challenge in the present writ petition is to the acquisition of land owned by the petitioners, where notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') was issued on 30.3.2012, which was followed by notification under Section 6 of the Act dated 26.3.2013.

Learned counsel for the petitioners submitted that on the part of the land in question, the petitioners have constructed their house and were living there. Though after the first round of litigation vide CWP No. 12220 of 2013 Lekh Ram and others vs State of Haryana and others, some portion of land, where houses had been constructed, was released from the acquisition, however, the petitioners' land was still acquired. It was further submitted that a sewerage treatment plant has been constructed at the site for which only 4 acres of land was acquired. The land initially was notified

for construction of Canal Based Water Works, however, the purpose was later on changed. There is lot of panchayat land available in the village, which is even more suitable and the same could be used for any public purpose, but instead of using the same, the land owned by the petitioners, which is fertile land, has been taken for construction of sewerage treatment plant.

On the other hand, learned counsel for the State submitted that no doubt initially the land was sought to be acquired for Canal Based Water Works, however, considering the increasing requirement of treating the sewerage water, so that it is neither discharged in a river nor on land without treatment, sewerage treatment plant was proposed on the site in question. Project was approved. As on today, a sum of ₹ 19 crores have already been spent as against the total revised estimated cost of ₹ 26 crores. Initially a bunch of petitions was filed raising the issue regarding houses being there on the part of the acquired land. The matter was examined by the State and as a consequence notification under Section 48 of the Act was issued on 10.8.2015 releasing 4 acres 6 kanals and 7 marlas of land from the total land measuring 23 acres 7 kanals and 19 marlas. It was in one block where houses have been constructed close to the abadi.

The contention raised by learned counsel for the petitioners that minimum required land should be acquired for any public purpose, deserves to be rejected, as the land is always required for future expansion, otherwise any project will have short life and will not cater the future requirements. It is misconceived to argue that there was residential house constructed by the petitioners on the acquired land as the land was lying vacant at the time of acquisition.

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

Initially the State notified 23 kanals, 7 kanals and 19 marlas of land for acquisition for the purpose of construction of Canal Based Water Works at Dharuhera Town. Objections were raised by some of the landowners raising issue of houses being there on some part of the land. CWP No. 12220 of 2013 Lekh Ram and others vs State of Haryana and others, was filed in this Court in which this Court strongly observed that there was no justification in uprooting the poor families to extend facilities to big industrialists or urbanites of Dharuhera without first adjusting/ re-locating the petitioners. The writ petition was disposed of on 1.8.2013 directing the State to either shift the site of the public utilities or release the land or allot alternative plots before the petitioners therein were dispossessed from their houses. The relevant part of the judgment is extracted below:-

“In these circumstances, this writ petition is disposed of with a direction to the respondents to either shift the site of the public utilities and release the residential houses of the petitioners from acquisition as per the Government policies dated 26.10.2007 and 24.01.2011 and/or allot them alternative plots in the residential sector of Dharuhera, without which none of them shall be dispossessed. Let the respondents take an appropriate decision within a reasonable period.”

As a consequence the matter was re-examined by the State and notification under Section 48 of the Act was issued on 10.8.2015, denotifying 4 acres 6 kanals and 7 marlas of land in a block in which houses had been constructed. Rest of the land was lying open, hence, was retained

as such. To establish that the land of the petitioners was lying open at the time of acquisition, the State has even annexed the photographs on record. These do not suggest that there was any *pacca* house on the site where the petitioners may be residing. Except that in one photograph a *kotha* was visible. Keeping in view the requirement for public purpose and ever demanding increase, sewerage treatment plant was planned at the site in question, the construction of which is nearing completion, as ₹ 19 crores have already been spent out of revised estimated cost of ₹ 26 crores.

The contention raised by learned counsel for the petitioners that for a sewerage treatment plant only 4 acres of land is sufficient, is merely to be noticed and rejected, as in a government project, the land is always acquired keeping in view the future needs so that whatever there is requirement of expansion, the project itself may not have to be shifted because of lack of space.

As has already been referred above, in earlier round of litigation, this Court directed for release of houses constructed on part of the acquired land. Needful has already been done by the State. The petitioners have not been able to establish any construction on their land.

For the reasons mentioned above, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(Rajesh Bindal)
 Judge

20.7.2017
 vs

(Gurvinder Singh Gill)
 Judge

Whether speaking/ reasoned
 Whether Reportable

Yes/No
 Yes/No