

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. LPA no.1704 of 2011 (O&M)

Haryana Urban Development Authority
Versus
Jile Singh
....Appellant(s)
...Respondent(s)

2. LPA no.2253 of 2011 (O&M)

Haryana Urban Development Authority
Versus
Hukam Chand and others
....Appellant(s)
...Respondent(s)

3. LPA no.2254 of 2011 (O&M)

Haryana Urban Development Authority
Versus
Umed Singh and others
....Appellant(s)
...Respondent(s)

4. LPA no.2255 of 2011 (O&M)

Haryana Urban Development Authority
Versus
Mohiyal Housing and Welfare Association Gurgaon and others
....Appellant(s)
...Respondent(s)

5. LPA no.129 of 2012 (O&M)

Haryana Urban Development Authority
Versus
....Appellant(s)

**LPA no.1704 of 2011 (O&M)
and connected cases**

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Mohinder Singh and others

...Respondent(s)

Date of Decision : 19.01.2017

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Mr. Lokesh Sinhal, Advocate for appellant
in LPA no. 2253, 2255 and 1704 of 2011

Ms. Akanksha Nayyar, Advocate for
Mr. Amar Vivek, Advocate for the appellant
in LPA no. 2254 of 2011

Ms. Kirti Singh, DAG, Haryana

Mr. B.S.Rana, Sr. Advocate with
Mr. Rajinder Paul, Advocate

Mr. Rajeev Anand, Advocate

Mr. Amit Jhanji, Advocate

Mr. C.B.Goel, Advocate

Mr. A.C. Jain, Advocate

Mr. R.S.Mamli, Advocate

MAHESH GROVER, J.(ORAL)

By this order we will dispose of the following five Letters
Patent Appeals wherein the appellant- HUDA has questioned the judgment
passed by the learned Single Judge of varying dates which are indicated
against each LPA:-

Sr. No.	LPA no.	CWP	Date of decision of CWP
1.	1704 of 2011	3340/1991	4.12.2007
2.	2253 of 2011	3342/1991	4.12.2007
3.	2254 of 2011	3344/1991	4.12.2007

**LPA no.1704 of 2011 (O&M)
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4.	2255 of 2011	10623/1998	4.12.2007
5.	129 of 2012	10068/1998	23.11.2007

In writ proceedings the land owners had questioned notification issued by the State of Haryana seeking acquisition of their land for a public purpose stated therein. The writ petitions were admitted for final disposal and interim order protecting the possession of the land owners was passed by the writ Court.

The appellants moved applications seeking vacation of the stay order granted by this Court at the time of admission by taking a plea that some of the land is urgently required to complete infrastructural projects such as road and laying of sewerage pipes etc. and prayed that the land indicated in the site plan by a particular colour be liberated of the restraint order, implying thereby that they be permitted to go ahead with the acquisition qua the specified land identified in the site plan.

For the purposes of reference, we may extract the relevant assertions made in the application for vacation of stay moved by the appellants in one of the cases (LPA no. 1704 of 2011):-

“Application under Section 151 of C.P.C for vacation of stay order granted by this Hon'ble Court only to the extent of land shown in Yellow colour in the Sajra Plan of Sector 32 Gurgaon wherein 320 mtrs of sewerage line along side the Delhi Jaipur NH-8 is to be laid so as to connect the entire sewerage pipeline in the interest of justice.

1. xxxx

2. xxxx

3. That ever since the Award, HUDA started development on the aforementioned area for the purpose for which the land was acquired and completed all developmental works including laying of water supply lines, storm drainage system, sewerage system, electricity lines and carpeting of roads etc. but due to the stay order granted by this Hon'ble Court in the present case, the aforementioned developmental works could not be completed and connected. It is pertinent to mention here that works pertaining to 320 mtrs of stretch on the said land/area on which the sewer line is to pass is held up because of the aforesaid mentioned stay order granted by this Hon'ble Court as a result of which human excreta is being drained out near the localities comprising of human habitation thereby causing suffocation and various diseases to the inhabitants living in an around the said area.

4. xxxx

5. That the respondent craves the kind indulgence of this Hon'ble Court to vacate the stay order over the land only to the extent where the sewer line is to

pass i.e 320 mtrs. Alongside the Delhi-Jaipur National Highway. It is further pertinent to mention here that the sewer line alongside NH-8 in the site map is complete in all respects but due to the stay order granted by this Hon'ble Court over the land in dispute involved in the present writ petition the same cannot be connected so as to make it functional.

6 to 10 xxxx

It is, therefore, respectfully prayed before this Hon'ble Court that the application be allowed and the stay granted by this Hon'ble Court in favour of the petitioners may kindly be vacated only to the extent of land shown in yellow colour in the Sajra Plan of Sector 32 Gurgaon wherein 320 mtrs of sewerage line along side the Delhi Jaipur NH-8 is to be laid so as to connect the entire sewerage pipeline in the interest of justice.”

Learned Single Judge construed this prayer of the appellants to imply waiver of the challenge to the remaining acquisition and while accepting the application and liberating some portion of the land from the restraint order as prayed for by the appellants, disposed of the writ petitions as well on the premise that the appellants had given up the contest qua the remaining land which was the subject matter of the writ petitions.

This is precisely the cause of grievance to the appellants who now contend that they had merely prayed that during the pendency of the writ petitions some portion of the land be liberated so as to enable them to

undertake the works of public importance and development but under no circumstances had they given up contest to the remaining proceedings in the writ petition.

As against this, the non-applicants-respondents herein who are the land owners support the reasoning of the learned Single Judge to contend that apart from this there would be issues of grant of relief under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation & Resettlement Act, 2013 so as to enable them to retrieve the land from the acquisition altogether since the possession remained with them and they did not avail of the compensation.

After hearing learned counsel for the parties, we are of the opinion that the learned Single Judge fell in grave error in concluding that the appellants had foregone their contest in the main writ petitions qua the entire acquisition questioned by the land owners. It was only with a limited prayer that they had approached this Court to permit them to continue with the development works and release some portion of the land from the impact of the stay order since these works were of paramount importance and of an urgent nature. The entire reading of the applications does not remotely suggest that they intended to settle the writ petitions in these terms.

Consequently, we accept the present appeals and modify the order of the learned Single Judge to say that it would be applicable to the land that stand utilized for public purposes but in so far as challenge to the remaining land is concerned the parties would be free to agitate the same on merits. Therefore, we restore the writ petitions bearing nos. 3340, 3342, 3344 of 1991 and 10628 and 10068 of 1998 to their original numbers and

direct their listing as per roster so that they can be decided on merits qua the controversy and the benefits under Section 24(2) of the Act.

Since the affidavit of the Administrator was to be filed only in one connected LPA bearing no. 2256 of 2011, the costs imposed vide this Court's order dated 18.10.2016 in all the LPAs shall stand waived and will stand in said LPA only.

(Mahesh Grover)
Judge

19.01.2017
rekha
Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(Shekher Dhawan)
Judge