

In the High Court of Punjab and Haryana at Chandigarh

Civil Writ Petition No.777 of 2016
Date of Decision:- August 16, 2017

Hari Kishan

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present : Mr. Kartar Singh Malik, Advocate,
for the petitioners

Mr. Ankur Mittal, Addl. A.G. Haryana

Gurvinder Singh Gill, J.

1. This judgement shall dispose off the following two writ petitions as both arise out of common facts:
 - (i) CWP No. 777 of 2016 - Hari Krishan vs. State of Haryana & others
 - (ii) CWP No.1563 of 2016 - Smt. Sarupi & another State of Haryana & others
2. The petitioner Hari Kishan in CWP 777 of 2016, has laid challenge to acquisition of his residential plot measuring 3 marlas(100 sq.yds) comprised in

Khasra no.100/20/1/2, situated in village Sunarai Kalan, Tehsil and District Rohtak.

2. The petitioner no.1 Smt. Sarupi in CWP 1563 of 2016, has challenged acquisition of her plot measuring 5 marlas(160 sq.yds) comprised in Khasra no.100/20/1/2, situated in village Sunarai Kalan, Tehsil and District Rohtak while petitioner no.2 Ram Chander, who is co-owner alongwith proforma respondents no. 6 to 9 has challenged acquisition of his plot measuring 100 sq.yds comprised in Khasra no.100/20/1/2, situated in same village.
2. The respondent no.1, in order to construct a 'sector dividing' road between Sector 24-25, Rohtak, proposed to acquire the land. Notification dated 21.6.2006 was issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). Three plots of the petitioners, as detailed above, were also included in the proposed acquisition.
3. Pursuant to issuance of aforesaid notification u/s 4 of the Act, a notification under Section 6 of the Act was issued on 22.2.2007.
4. It is contended on behalf of the petitioners that the land of the petitioners is situated much away from the land where the 'sector dividing' road is to be built and that the respondents have already released land of some of the land owners which not only abuts the proposed 'sector dividing' road but infact a part of it falls in the area where the road is actually to be built. It has, thus, been contended that the respondents, by resorting to 'pick and choose' policy have released land of some of the land owners in a discriminatory manner while the land of the petitioners which apparently is not required for construction of the proposed 'sector dividing' road is not being released. The petitioners also seek

to invoke provisions of section 24(2) of Land Acquisition Rehabilitation and Re-settlement Act 2013 by submitting that neither the respondents have taken possession of their land nor compensation been paid to them.

5. The claim of the petitioners is opposed on the ground that the land which has been released by the Government vide order dated 15.12.2010 was where residential houses were existing, whereas the land of the petitioners was lying vacant. The respondents have further taken a stand that entire amount of compensation for 80.40 acres of acquired land worked out to ₹ 18,27,04,222/- out of which the Land Acquisition Collector had already disbursed 98.41% to the land owners and the balance amount is lying deposited which the land owners did not come forward to collect and that the petitioners themselves did not come forward to receive the compensation. It has further been submitted that since the petitioners never filed any objections under Section 5-A of the Act, no case is made out for quashing the notification or for releasing the land of the petitioners. It has also been submitted that the land of the petitioners may be required for widening of Rohtak-Jhajjar Road which abuts the land of the petitioners.

6. Having considered the arguments addressed before this Court and upon perusal of the pleadings including the Layout plan filed today on behalf of the respondents, which has been taken on record, we find that land measuring 81.96 acres was notified to be acquired vide notification dated 22.2.2007 under Section 6 of the Act. Award was announced for 80.40 acres for constructing a 45 metre wide 'sector dividing' road. Along with the 'sector dividing' road, a service road, 12 metres in width, was also to be constructed. A perusal of the

lay-out plan shows that two pieces of land shown in pink colour have been excluded under Section 5-A of the Act. Part of one such piece of land in fact falls in the area where the 'sector dividing' road is proposed to be constructed. Further, towards the southern side of the layout plan, in Khewat No. 100, where the land of the petitioners is situated, some land is shown to be released. In fact, the said released land surrounds the land of the petitioners on three sides. The layout plan also reveals that the land of the petitioners is situated away from the proposed 'sector dividing' road.

7. The learned counsel representing the State could not deny the fact that the sole purpose of acquisition of land is for construction of 'sector dividing' road and that the land of the petitioners is situated away from the said 45 metre sector dividing road.
8. Though, the petitioners did not submit any objections under Section 5-A of the Act, but admittedly the respondents have released the land belonging to Pardeep, Smt. Devi, Sandeep Singh and Satyawar comprised in Khewat no. 100 in the year 2010 i.e. much after the acquisition. The petitioners had made representations for release of their land on 1.9.2015 (Annexure P-7 in both the cases), but no decision has been taken by the respondents.
9. When the respondents have already released land abutting the land of the petitioners on three sides then certainly no purpose of State would be served by acquiring the land of the petitioners which, in any case, is away from the proposed 'sector dividing' road. Rather, not releasing his land smacks of discrimination.
10. Consequently, the writ petitions are allowed. It is directed that the land of the

petitioners be released from acquisition. However, in case, at a later stage, the said land is required for construction/widening of Rohtak-Jhajjar Road which abuts the land of the petitioners, the respondents would be at liberty to proceed in accordance with law for initiating fresh acquisition proceedings.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

August 16, 2017
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Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No