

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8322 of 2016 (O&M)

Date of Decision: 23.03.2017

Sombir and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. S.P. Chahar, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana.

RAJESH BINDAL,J.

1. The petitioners have approached this Court seeking quashing of the notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') dated 14.11.2008 and 4.12.2008 respectively. The acquisition was carried out invoking emergency provisions under Section 17 of the Act.

2. Learned counsel for the petitioners submitted that they are owners in possession of 10 kanals 10 marlas of land falling in Khewat No. 2511/2324 Khatouni No. 2876 Rectangle No. 144 Killa No. 1/1 (1-4) and rect. no. 145 Killa No. 6/1 (5-3) and Khewat No. 2554 min.// 2365 Khatouni No. 2934 min. Rect. no. 144 Killa No. 1/2 (4-3) falling within the revenue estate of village Jhajjar, Tehsil and District Jhajjar. Out of the aforesaid mentioned land rect. No. 144 Killa no.6/1 min. (0-6) and Rect. No. 144 Killa No. 1/2 (0-18) was sought to be acquired for which notification under

Section 4 read with section 17 (4) of the Act was issued on 14.11.2008. It

was followed by notification under Section 6 read with section 17(4) of the Act dated 4.12.2008. The award was announced on 2.12.2010. The acquisition of land was for the purpose of widening of road. Challenge to the acquisition has been made on the ground that the areas around the land of the petitioners was either not acquired, or released after acquisition or quashed by this Court, as a result of which portion of land owned by the petitioners which has been acquired, will not serve the purpose as for widening of road, a clear strip of land would be required and not small small portions here and there.

3. To substantiate his plea, learned counsel for the petitioners referred to the site plan produced as Annexure-P11. Learned counsel for the petitioners argued that the acquisition of some part of land was earlier quashed by this Court because there were lot of construction in the area.

4. Learned counsel for the State has produced a site plan in Court which is similar to the site plan produced by the petitioners showing different portion of land which were either not acquired or the acquisition thereof was quashed by this Court. Even from the site plan produced by the State, it is evident that clear strip of land will not be available so as to enable the authorities to widen the road.

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

6. The notification under Section 4 of the Act read with Section 17(4) was issued on 14.11.2008. The land owners were not given any opportunity to avail of their right to file objections under Section 5-A of the Act. It was followed by notification dated 4.12.2008. Though initially emergency provisions were invoked as even the right of the land owners to

file objections under Section 5-A of the Act was also taken away but the award was announced on 2.12.2010, nearly two years after issuance of notification under Section 6 of the Act. Some of the land owners filed CWP No. 10512 of 2009 titled as Satbir Singh Versus State of Haryana and others in this Court challenging the acquisition. It was claimed therein that there was construction already existing when notification under Section 4 was issued. The writ petition was allowed. The acquisition was quashed vide judgment dated 18.2.2010. In another petition bearing CWP No. 23062 of 2010 titled as Om Parkash Versus State of Haryana and others, other portion of the land acquired vide same notification was under challenge. The same was allowed vide judgment dated 4.10.2011. From the site plan produced on record by the petitioners, it is evident that the land was acquired to widen the road connecting two roads on different sides namely Rohtak- Jhajjar, and Jhajjar-Sampala. It is in the form of a strip. At the corner of Rohtak-Jhajjar road, land bearing Rect. No. 145//3/2 was not acquired initially as claimed by the petitioners. A small portion of land subsequent thereto bearing Rect. No. 145//4/1/2 is apparently still under acquisition. The acquisition of land bearing Rect. No. 145//26/2, the next plot, was set aside by this Court in Satbir Singh's case (supra). Adjoining to this land is the land owned by the petitioners and partially it falls within the acquired land whereas partially behind that. Beyond that there is a small strip of land bearing Rect. No. 144//1/2, which as claimed by the petitioners was not acquired initially. Thereafter there are four portions of land adjoining to each other where acquisition was quashed by this Court. Even towards the end of the road also, there are small portions of land the acquisition of which was quashed by this Court. Even in the plan produced by learned

counsel for the State in Court, areas of land, the acquisition of which was quashed by this Court vide different writ petitions have been shown bearing CWP Nos. 21384, 22827 and 23124 of 2010.

7. A perusal of the site plan produced by learned counsel for the State in Court and also the site plan produced by the petitioners as Annexure-P11 which is more specific as mentions even Khasra Numbers, it is evident that though the acquisition of land is for widening of road, however, acquisition of land on both sides of the land of the petitioners has already been quashed by this court, hence, a small portion of land owned by the petitioners which is sandwiched in between will be of no use, if the purpose for which the acquisition of the land was made, is seen.

8. For the reasons mentioned above, as there had been no application of mind before or after the acquisition of land in question. The acquisition of land owned by the petitioners deserves to be quashed.

9. Ordered accordingly.

10. The petition stands disposed of.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

23.03.2017
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Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No