

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

CWP No.9658 of 2015 (O&M)

Date of Decision: January 12, 2017

Angoori Devi

----Petitioner

Versus

State of Haryana and others

----Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. Manav Bajaj for Mr. Sumeet Goel, Advocate
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

HARINDER SINGH SIDHU, J.

1. Challenge in this petition is to the notifications dated 6.12.2004 and 5.12.2005 (Annexures P-2 and P-4) issued under Sections 4 and 6 of the Land Acquisition Act, 1894, respectively and order dated 17.3.2015 (Annexure P-10) passed by the Secretary-cum-Director General, Urban Estates Department, Haryana – respondent No.1.

2. The State of Haryana vide notification dated 6.12.2004 proposed to acquire 12.08 acres of land situated within the Revenue Estate of Village Ratgal, Tehsil Thanesar, District Kurukshetra for “the development and utilization of land for residential, transport and communication zones for Sector 7, Kurukshetra....”. After considering the objections filed by the petitioner and other land owners, notification dated 5.12.2005 was issued in respect of 4.66 acres only. Award was announced in respect of 4.50 acres of land on 04.05.2009. One Kanal 8 ½ marlas of land belonging to the petitioner also forms part of this acquisition.

3. The land owners filed five separate writ petitions challenging the acquisition. The petitioner had filed petition being CWP No.17272 of 2006 titled Angoori Devi and another Vs. State of Haryana and ors. Five writ petitions, including the one filed by the petitioner were disposed of vide common order dated 30.01.2014. The principal contention on behalf of the petitioners therein, as noticed in the order, was, that the small parcels of land belonging to the petitioners would not serve the notified public purpose as the acquired land was not a compact piece but was scattered in three pockets. The writ petitions were disposed of with a direction to the authorities to objectively consider the contention of the petitioners that the acquired land was not likely to serve the public purpose. If the respondents took the view that the acquired land could not be utilized for the public purpose, the same was directed to be returned to the land owners. If the authorities were of the view that the acquired land could be utilized for the public purpose then a speaking order in this regard was to be passed after conducting fresh survey of the acquired land.

4. In terms of the aforesaid directions, composite order dated 17.03.2015 (Annexure P-10) has been passed declining the claim of the petitioners in all the five writ petitions including the present petitioner.

5. Learned counsel for the petitioner contended that no fresh survey as directed by the High Court was conducted and no effective hearing was given to the petitioner. He further argued that the action of the authorities in not releasing the land of the petitioner while releasing similarly situated land of others, was discriminatory.

6. Ms. Palika Monga, Deputy Advocate General, Haryana referred to the written statement, wherein, it is stated that the possession could not be

taken earlier and delivered to the beneficiary department i.e. HUDA due to interim order passed by this Court. It was further stated that the land in question is part and parcel of Sector 7, Kurukshetra and the same is shown on the published Draft Development Plan 2031 AD. More than 95% of the Sector stands developed except the land in question. A copy of the Shajra-cum-layout plan of Sector 7 has been attached as Annexure R-3/2. It is stated that the land of the petitioner shall be planned easily in integration to the already developed Sector 7, Kurukshetra. Regarding the allegation that no fresh survey was conducted, it is stated that it is clear from the impugned order itself that the District Town Planner had submitted a report with respect to the land involving all the writ petitions. The report of the District Town Planner was discussed in the presence of husband of the petitioner on 20.06.2014, but he did not raise any objection thereto. She also placed reliance on a decision of this Court in **CWP No.12175 of 2015 Anand Bajaj & ors Vs. State of Haryana & ors** and other connected cases decided on 11.08.2016, wherein, challenge to the impugned order by the petitioners in the four other petitions was negatived.

7. Heard learned counsel for the parties and perused the record.

8. In the impugned order, it is recorded that no one appeared on behalf of the petitioner at the time of hearing on 07.07.2014. However, on 20.06.2014, Sh. Beni Parshad (husband of the petitioner) was present on behalf of the petitioner and he had submitted that the land is locked being surrounded by released land on all sides and hence, cannot be utilized for any public purpose by the Department. The District Town Planner, Kurukshetra on the other hand informed that the land is located adjoining

the tubewell site of HUDA and it is possible to utilize the land by extending

the nearby 9 meters wide road through the tubewell site. Also the land at site is lying vacant. In view of this, the Committee of Officers decided not to release any land to the petitioner. The said recommendation was approved by the Government and accordingly, the claim of the petitioner for release of land was declined.

9. Thus, it is clear that an opportunity of hearing was given to the petitioner, her husband appeared on one date and the contentions raised by him were duly considered.

10. The allegation that no fresh survey was conducted also does not merit acceptance. It is clear from the impugned order itself that the District Town Planner had submitted a report with respect to the land in question in all five writ petitions. Counsel for some of the petitioners had requested that they be given the report of the DTP so that they could file written reply to the report. Accordingly the DTP, Kurukshetra was directed to supply a copy of the survey report to them and they were given time to file reply.

11. This Court while disposing of the case of **Anand Bajaj and ors** (*supra*) filed by the other petitioners, whose petitions along with that of the present petitioner were disposed of vide order dated 30.01.2014, has held that the plea of discrimination in the matter of release of land was available to the petitioners in previous round of litigation, but was not pressed by them. Hence, it could not be entertained at this stage. Moreover, the persons, who have been allegedly so favoured were not impleaded. The Court found no reason to disagree with the view of the authorities that the land could be usefully utilized for the public purpose and accordingly, dismissed the writ petitions. For the same and other reasons as in the case

the conscious decision of the authorities that as the land of the petitioner can be effectively utilized for the stated public purpose, hence, the claim of the petitioner for its release be declined.

12. Accordingly, there is no merit in the writ petition and the same is dismissed.

13. However, as observed in order dated 11.08.2016 passed in the case of *Anand Bajaj and ors (supra)*, the acquired land shall be utilized for bonafide public purpose only.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 12, 2017

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No