

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

CWP No. 4377 of 2017 (O&M)

Date of decision : 16.11.2017

Kamlesh

.. Petitioner

versus

State of Haryana and others

.. Respondents

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

Present: Mr. Vikram Singh, Advocate and
Mr. Hardeep Singh Dhillon, Advocate, for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana with
Mr. Shivendra Swaroop, Asstt. Advocate General, Haryana and
Mr. Manoj Dhankhar, Assistant Advocate General, Haryana.

Mr. Lokesh Sinhal, Advocate, for HSIIDC/respondent No.3.

Rajesh Bindal, J.

Short reply by way of affidavit of Savita Jindal, Divisional
Town Planner, HSIIDC, Sector-6, Panchkula dated 9.11.2017 filed on
behalf of respondent No.3 in Court is taken on record.

The petitioner has approached this Court praying for quashing
of acquisition of land, where notifications under Sections 4 and 6 of the
Land Acquisition Act, 1894 (for short 'the Act'), were issued on 11.7.2006
and 16.7.2007, respectively. Award was announced by the Land Acquisition
Collector (for short 'the Collector') on 23.6.2009.

Learned counsel for the petitioner submitted that the petitioner
is owner of a plot measuring 34 square yards forming part of Khasra
Nos.3264 and 3265, on which shop was also constructed prior to the
issuance of notification under Section 4 of the Act. As this is the only shop

owned by the petitioner, the same deserves to be released from acquisition. The respondents had released other areas, where construction existed prior to issuance of notification under Section 4 of the Act. Even open land was also released from acquisition.

On the other hand, learned counsel for the respondents submitted that as per the revenue record, the petitioner is not owner of any shop forming part of Khasra Nos. 3264 and 3265, as is claimed. Specific averments to that effect have been made in the short reply dated 9.11.2017 filed by HSIIDC. After issuance of notification under Section 4 of the Act, the petitioner never filed objections under Section 5-A of the Act to claim that there was any construction existing, which deserved to be released. The plot at the time of acquisition was lying vacant. It was further submitted that the award in the present acquisition was announced by the Collector on 23.6.2009. The petition is highly belated, as it was filed more than seven years thereafter.

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

The undisputed facts on record are that notification under Section 4 of the Act was issued on 11.7.2006. Though the petitioner claimed that there was construction existing on the plot owned by her, however, no objections under Section 5-A of the Act were filed. After notification under Section 6 of the Act was issued on 16.7.2007, the Collector announced award on 23.6.2009. The petitioner did not dispute the stand taken by the respondents that she is not owner of the plot. Even otherwise the petitioner never raised any grievance after the award was announced by the Collector.

It is only after some of the landowners approached this Court raising

grievance about acquisition of their A-class constructed houses and the petitions were disposed of vide order 11.3.2014 passed in CWP No.4369 of 2004 –Jagdish Raj Sharma vs. The State of Haryana and another, directing the authorities to reconsider their cases, the present petition has been filed. It could not be proved on record that there was any construction existing on the plot of the petitioner prior to issuance of notification under Section 4 of the Act. The writ petition otherwise filed more than seven years after the award was announced by the Collector, is highly belated.

For the reasons mentioned above, the writ petition is dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

16.11.2017
sharmila

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No