

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5437 of 2017 (O&M)
Date of decision: 27.11.2017

Amar Singh

.. Petitioner

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Nitin Rathee, Advocate for the petitioner.
Mr. Ankur Mittal, Additional Advocate General, Haryana
with Mr. Manoj Dhankhar & Mr. Shivendra Swaroop,
Assistant Advocates General, Haryana.

...

Rajesh Bindal, J.

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 2.1.2002 and 24.12.2002, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 21.12.2004.

Learned counsel for the petitioner submitted that he owned 37 kanals and 12 marlas of land. Out of that, on 525 square yards, construction had been raised. The petitioner did not object to the acquisition of other land, however, possession of the area, where construction had been raised, having not been taken till date, though the amount of compensation has been received by the petitioner, the acquisition qua that portion of land has lapsed.

Learned counsel for the State submitted that amount of compensation for the acquired land has already been received by the petitioner, however, compensation for the super structure existing on small portion of the acquired land has not been received by the petitioner, which is lying deposited with the Collector. The area has already been developed. Small construction raised by the petitioner is disturbing the planning of four plots, measuring 14 marlas each. Almost all other plots in the area have been sold, however, the area in question, which is disturbing the lay out of four plots has not been sold.

On instructions from Amrik Singh, DTP, Karnal and Kewal Krishan, Junior Engineer, Office of Estate Office, Karnal, learned counsel for the State fairly submitted that demarcation of the area owned by the petitioner, where the petitioner had raised construction, shall be carried out and the area to the extent of one plot measuring 14 marlas, as per the choice of the petitioner, wherever maximum construction is there, can be released. The petitioner will have to demolish the construction on other portion of land at his own expense. He will also have to return back the compensation received by him in excess of the amount due to him along with interest as per the policy of HUDA. He further submitted that the area will be demarcated by 15.12.2017. As the constructed portion is being released, the petitioner will not be entitled to any compensation, which had been assessed for the super structure. After demarcation of the area, the petitioner should submit his option for one of the four plots within a period of one week. He should remove the construction from other area immediately thereafter. He further submitted that the petitioner should also make necessary application in the pending reference under Section 18 of the Act for correction of the

area owned by him for which enhancement of compensation is sought as 14 marlas' of land will be released.

In response, learned counsel for the petitioner submitted that after the area is demarcated, the petitioner will give his option for one of the plots measuring 14 marlas within 10 days thereof and demolish the excess construction on the other portion within one month thereafter. He further submitted that the petitioner will forego the compensation, which had been assessed for super structure existing on the acquired land at the time of acquisition, which in fact has not been paid to the petitioner till date. Further, he will deposit the compensation qua the portion of land being released along with interest thereon, as per the policy of HUDA within a period of three months. He further submitted that the petitioner will make necessary application in the pending reference under Section 18 of the Act for correction of the area owned by him for which enhancement of compensation is sought, as 14 marlas' land has been released.

After hearing learned counsel for the parties and considering the fair stand taken by the counsel for the parties, the present petition is disposed of with a direction that after the area is demarcated, the petitioner will give his option for one of the plot measuring 14 marlas within 10 days thereof and demolish the excess construction on other portion within one month thereafter. He will forego the compensation, which had been assessed for super structure existing on the acquired land at the time of acquisition, which in fact has not been paid to the petitioner till date. He will further deposit the compensation qua the portion of land being released along with interest thereon, as per the policy of HUDA within a period of three months. The petitioner will also make necessary application in the

pending reference under Section 18 of the Act for correction of the area owned by him for which enhancement of compensation is sought, as 14 marlas' land has been released.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

27.11.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No