

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

**RA-CW No. 55 of 2016 (O&M) in
CWP No. 1333 of 2015**

Date of decision: 1.8.2017

Satyawati

.... Applicant

VS

The State of Haryana and others

.... Respondents

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

**Present: Mr. Vikram Punia, Advocate, for the applicant/petitioner.
Ms. Palika Monga, Deputy Advocate General, Haryana.**

Rajesh Bindal, J.

The present Review Application has been filed seeking review of the order dated 30.11.2015 passed by this Court vide which the main writ petition was dismissed in view of detailed order passed in CWP No. 1314 of 2015 – Satwanti and another vs State of Haryana and others.

The plea raised is that the fact that the petitioner had raised construction of the house on a small plot measuring 3½ marlas of land, which was purchased way back in the year 1997, could not be brought to the notice of the Court at the time of hearing of bunch of petitions.

Learned counsel for the applicant-petitioner submitted that for acquisition of the land in question, notification had been issued by the State under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') on 22.2.2007, proposing to acquire land for public purpose, namely, for development as Sectors 8 and 9 at Dadri. The area sought to be acquired was 169.78 acres. The same was followed by notification under Section 6

of the Act issued on 20.2.2008 for 154.50 acres of land. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 18.1.2010 for 139.24 acres of land.

The petitioner had purchased 3½ marlas of land vide registered sale-deed dated 15.5.1997, on which she immediately constructed house after getting the site plan approved from the Municipality, Charkhi Dadri. In fact, the petitioner is assessed to house tax from the very beginning. Assessment register for house tax for the year 1999-2000 has been annexed as Annexure PR-3. He further submitted that for construction of house, the petitioner had raised loan of ₹ 75,000/- from Haryana Gram Bank, which has since been re-paid. Electric connection was released to the petitioner on 27.11.1997. He further submitted that the house of the petitioner falls at the fag end of the road which leads nowhere as subsequent thereto is Ravi Dass Basti, which is thickly populated. In case the small house of the petitioner constructed with hard earned money is released from acquisition, the planning is not going to be disturbed. He further submitted that the State itself had released small-small portions of land from acquisition where construction had been raised.

On the other hand, learned counsel for the State submitted that the house of the petitioner will disturb 45 meters wide road on one side and 24 meters wide road on the other side as it falls on its corner. Wherever the constructed area could be adjusted, those were released from acquisition, but the petitioner's house cannot be exempted from the acquisition as the area is required for infrastructure development. She did not dispute the fact that otherwise the house of the petitioner falls at the fag end of the road which ends adjoining to Ravi Dass Basti.

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

Notification under Section 4 of the Act for acquisition of land for development as Sectors 8 and 9 at Dadri, proposing to acquire 169.78 acres of land was issued on 22.2.2007. It was followed by notification under Section 6 of the Act issued on 20.2.2008 for 154.50 acres of land. The Collector announced the award for 139.24 acres of land on 18.1.2010.

It is not in dispute that the petitioner had purchased 3½ marlas of land vide registered sale-deed dated 15.5.1997. She had constructed the house in question after getting the site plan approved from the Municipality, Charkhi Dadri. She has been paying the house tax from the very beginning. House tax Register for the year 1999-2000 has been annexed as Annexure PR-3. As submitted by learned counsel for the petitioner, the petitioner had constructed the house after raising loan of ₹ 75,000/- from Haryana Gram Bank, which has already been re-paid. On 27.11.1997, electric connection was released to the petitioner.

To ascertain the contentions raised by learned counsel for the petitioner regarding the location of the land of the petitioner, site plans produced by learned counsel for the State in Court, prepared at various times, were perused. The fact that the area finally acquired as compared to the area, which was initially notified under Section 4 of the Act, clearly establishes the fact that the substantial piece of land was released from the acquisition during the process. To establish that, the petitioner had placed on record site plan as Annexure P-8. In that, she had depicted some portion of land, which was released from acquisition. One of the portion of land was clearly located on the 45 meters wide road as proposed in the plan. Not only

this, in another plan produced on record by the petitioner vide Annexure PR/12, number of other portions of land, which were located at different places in the total acquisition boundary have been depicted. Beyond the house of the petitioner is Ravi Dass Basti, which is admittedly thickly populated and is beyond the acquisition boundary. The plan prepared on 10.5.2005 at the time of survey of the area before issuance of notification under Section 4 of the Act has been produced, which depicts various small-small portions, where construction had been raised by different landowners. The house of the petitioner is also clearly shown therein. As per this plan, it falls on 45 meters wide road adjoining to Ravi Dass Basti. The proposed plan shows that road will pass through the basti as if the portion of land beneath the houses constructed, will also be acquired. On the other side of the house, 24 meters wide road had been shown. One constructed area falling on 45 meters proposed road, as per this plan, was later on released from this acquisition, has also been depicted on this plan. In that plan acquisition boundary has been depicted in terms of which Ravi Dass Basti is outside the acquisition boundary.

A plan dated 3.6.2015 has been produced in which the entire planning has again been changed. The structure which was initially shown on 45 meters wide road and released from acquisition is shown as 'released structure', and as a result thereof, the alignment of the road has been changed. Going further on that road on which the house of the petitioner is located at the fag end, there is big portion of land which is shown as licensed colony. There is no demarcation of the road in that area, though part of that licensed colony falls on that 45 meters road. Though the house of the petitioner was shown at the corner of the 45 meters road on one side,

24 meters road on the other side, but as per the changed plan, 24 meters wide road has been reduced in length and part of that has been changed to 12 meters wide road. Meaning thereby, the planning is being changed as it suits the authorities.

Once other constructed areas, as per the survey plan, 2005, could be released from the acquisition, including the one falling on the proposed 45 meters road, there was no justification for acquisition of small house constructed by the petitioner on 3½ marls of land, which falls at the fag end of the road adjoining to Ravi Dass Basti, which is beyond the acquisition boundary.

From the facts of the case it is established that it is a case of hostile discrimination, hence, in our opinion, acquisition of small house of the petitioner measuring 3½ marlas of land, deserves to be quashed. Ordered accordingly.

The Review Application stands disposed of.

(Rajesh Bindal)
Judge

1.8.2017
vs

(Gurvinder Singh Gill)
Judge

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