

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

**1. CM-17830-CWP-2017 in/and
CWP-9318-2003 (O&M)
Date of Decision: February 08, 2018**

Jaswinder Kaur and anotherPetitioners.
Versus
State of Punjab and others ...Respondents.

2. CWP-9613-2003

Neelam Vashisht and othersPetitioners.
Versus
State of Punjab and others ...Respondents.

3. CWP-11541-2003 (O&M)

Bakshish KaurPetitioner.
Versus
State of Punjab and others ...Respondents.

4. CWP-12090-2003

Jaswinder SinghPetitioner.
Versus
State of Punjab and others ...Respondents.

5. CWP-9334-2003

Rajinder Kaur and othersPetitioners.
Versus
State of Punjab and others ...Respondents.

6. CWP-11690-2003

Rajdeep SinghPetitioner.
Versus
State of Punjab and others ...Respondents.

7. CWP-9179-2003 (O&M)

Narinderjit KaurPetitioner.
Versus
State of Punjab and others ...Respondents.

8. CWP-12492-2003 (O&M)

Daminder KaurPetitioner.

Versus

State of Punjab ...Respondent.

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Disest? | Yes/No |
| 3. | Whether Reporters of local papers may be allowed to see the judgment | Yes/No |

Present: Mr. Amit Jain, Advocate
Ms. Jaideep Kaur, Advocate for
Mr. Hitesh Kaplish, Advocate
Mr. R.S. Athwal, Advocate for the petitioners in CWP
Nos.9334, 11541 and 11690-2003.

Mr. Rahul Sharma-I, Advocate
for the applicants.

Mr. Sahil Sharma, DAG, Punjab.
Mr. R.S. Khosla, Sr. Advocate with
Ms. Ishrat Phulka, Advocate for Phagwara Improvement Trust.
Mr. Rajinder Sharma, Advocate for respondent No.2 in
CWP Nos.9318, 9613, 11541, 12090, 9334, 11690 and 9179 of
2003.
Mr. Surjit Singh Swaich, Advocate for Harjit Singh Parmar,
Ex-Chairman.

SURYA KANT, J.

CM-17830-CWP-2017

On seeing the photographs of 'A' Class Bungalow and on
instructions from Mr. Raj Kumar, XEN of the Trust, who is present in Court,
Mr. Rupinder Singh Khosla, learned senior counsel for the Trust states that

the said house has been recommended to be exempted from acquisition and only vacant land is sought to be acquired.

The application, as such, at this stage is infructuous. However, there shall be liberty to the applicant to initiate appropriate proceedings, if need be, in accordance with law.

Main cases

This order shall dispose of CWP Nos. 9318, 9613, 11541, 12090, 9334, 11690, 9179 and 12492 of 2003 as there is common challenge to the notifications dated 28.06.2000 and 20.06.2001 issued under Sections 36 and 42 of the Punjab Town Improvement Act, 1922 (for brevity, 'the 1922 Act'), respectively whereby the land of the petitioners has been acquired for its utilization for the Development Scheme No. 10 launched by the Improvement Trust, Phagwara.

[2]. The acquired land falls within the municipal limits of Phagwara town and the petitioners appear to have purchased the same as residential plots much before the acquisition under challenge.

[3]. The primary contention of the petitioners is that they have constructed their residential houses and since the acquisition is also for development of a residential scheme, the object and the 'public purpose' of acquisition already stands achieved. They also rely upon various decisions/instances where constructed properties have been released by the Improvement Trust with or without court orders. In addition, reliance is placed on a Division Bench decision of this Court dated 14.10.2003 in **CWP**

No. 9139 of 2003 [Tarsem Lal & Ors. Vs. State of Punjab & Ors.]

pertaining to the same acquisition in which notification under Section 42 of the 1922 Act was struck down on account of failure of the authorities to supply necessary documents and hearing to the landowners, though with liberty to the Improvement Trust to issue fresh notification if so permissible under the law. It is stated that no fresh notification was issued and the entire land stands released.

[4]. The Improvement Trust, Phagwara on the other hand, has filed its reply/affidavit maintaining that the award in respect of the acquired land has been already announced on 19.06.2003, i.e., before filing of these writ petitions and Development Scheme No. 10 has since been prepared by it.

[5]. As regard to the release of the constructed properties, the Improvement Trust has taken the following plea in Para No. 12 of its written statement:-

“That the contents of this para are wrong and denied. At the time of survey only five A class buildings were in existence and it was unanimously decided by the Trust to exempt those buildings from the final lay out plan. There was no such building at the time of survey and the publication of notice under Section 36 of the Act. If subsequently any body raised any constructions it was done at its own risk and responsibility. There was proper publication of the notification and publication under Section 36 of the Act but none of the petitioners raised any objection”.

[6]. Survey Plan of Development Scheme No. 10 [Residential] has also been appended as Annexure R-1 with the written statement.

[7]. The petitioners have filed replication reiterating that in the Survey Plan [P-19] appended by them, the land shown in red colour and marked as 'ABC' are the constructed houses which were in existence prior to the issuance of notification under Section 36 of the Act. They also allege discrimination as several properties depicted in the Survey Plan are said to have been released.

[8] Mr. Rupinder Singh Khosla, learned Senior counsel states that in deference to the observations made by this Court in the order dated 15.12.2016, the Trust has already initiated process to acquire only the vacant land for which Notification under Section 36 of the 1922 Act has been issued and objections invited, which have been duly considered and the report has been sent to the competent Authority for issuance of Notification us/ 42 of the 1922 Act.

[9] Since the Trust has now taken steps to eliminate the very ground of discrimination, the writ petitions are disposed of at this stage having become substantially infructuous, but without prejudice to the rights of the petitioners to re-agitate the matter before this Court in case they find that the vacant land of Tarsem Lal and others (supra) or any other similarly placed person has not been fully acquired or that their plea of discrimination has not been fully addressed.

[10] The petitioners shall also be at liberty to take up all the grounds taken in the instant writ petition in the fresh proceedings, if need be, including for the release of their houses.

[11] As regard to the directions issued for the release of houses/
lands, the same shall have to be complied with by the Trust in true letter and
spirit and in a time bound manner.

Disposed of.

(SURYA KANT)
JUDGE

February 08, 2018
meenuss/js

(SHEKHER DHAWAN)
JUDGE

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| 1. | Whether speaking/reasoned? | Yes |
| 2. | Whether reportable? | No |