

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1111-2018

Date of Decision: January 22, 2018

Kamla Devi and others

.....Petitioners

Versus

The State of Haryana and others

.....Respondents

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 Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Ashutosh Gupta, Advocate for the petitioners.

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SURYA KANT, J.

Notice of motion.

[2] On our asking, Mr.Ankur Mittal, Additional Advocate General, Haryana, alongwith Mr.Manoj Dhankhar, AAG, Haryana, who is present in Court, accepts notice on behalf of all the respondents. Let three sets of paper-book be handed over to him during the course of day.

[3] In view of the nature of the order, which we propose to pass, there is no need to seek any reply-affidavit from the official respondents.

[4] The short question that arises for consideration in this case is whether land of the petitioners comprising Khasra Nos.269/1-3, 270/0-18, 360/50/2 and 360/49 situated in village Manakpur Thakur Dass, Tehsil Kalka, District Panchkula which was acquired vide Notifications dated 30.11.2006 and 28.11.2007 issued under Sections 4&6 of the land Acquisition Act, 1894 respectively is liable to be released from acquisition in terms of the Government Policy keeping in view the admitted fact that

they have constructed a residential house and installed *Chakki* at the site. The petitioners had earlier approached this Court through CWP Nos.9397 of 2014 and 13242 of 2016, which were disposed of by this Court on 15.05.2014 and 11.07.2016 respectively, with a direction that since part of the acquisition has been struck down by the Hon'ble Supreme Court vide judgment dated 07.08.2013 passed in Civil Appeal Nos.6668-6669 of 2013 (Gian Chand and others vs State of Haryana and others) and other connected appeals (Annexure P-2), let claim of the petitioners regarding release of their residential house be considered on the same parity.

[5] Pursuant to the above-stated directions, the Land Acquisition Collector, Urban Estate, Panchkula, has passed the impugned order dated 02.02.2017, paras 5 and 6 whereof are to the following effect:-

“5. That the undersigned have gone through the representation filed by the petitioners, order dated 11.07.2016, revenue records and have also inspected the site in dispute. That as per current status of the site, there is a house as well as Chakki over the disputed land. That the petitioners are also having actual physical possession of the land. It is important here to mention that the petitioners have also not taken up their compensation amount.

6. Hence, the representation of the petitioners with regard to release of land is hereby disposed of and the order is hereby forwarded to the Government for taking necessary action with regard to the issue of release of land as the undersigned is not a competent authority to release the land. Although the pending amount of the petitioners is lying deposited in the common account of Land Acquisition Collector and is available for payment immediately on demand of petitioners on any working day during office

hours.”

[6] It may be seen that the authorities are admitting the existence of a residential house and *Chakki* etc., namely, that physical possession of the land is with the petitioners. Incidentally they have not received the compensation also. Though it is not a case where the petitioners can seek benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, but fact remains that under the Government Policy also, the existing structures especially the residential houses deserve to be released from acquisition. Since the Land Acquisition Collector has forwarded petitioners' claim to the State Government, we dispose of this writ petition with a direction to the State of Haryana through its Department of Urban Development to consider the above-mentioned claim of the petitioners, as contained in the reference sent by Land Acquisition Collector, Urban Estate, Panchkula vide Memo dated 02.02.2017 and take an appropriate decision regarding release of petitioners' land in accordance with the Government Policy within a period of four months from the date of receipt of a certified copy of this order.

[7] Dispossession of the petitioners shall remain stayed till the State Government takes an appropriate decision.

(SURYA KANT)
JUDGE

January 22, 2018

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1. Whether speaking/reasoned ?
2. Whether reportable ?

(SHEKHER DHAWAN)
JUDGE

Yes/No
Yes/No