

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

CWP No.16759 of 2016
Date of Decision: 06.03.2018

Shyam Sunder

...Petitioner

VS.

State of Haryana & Ors.

... Respondents

Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan

Present: Mr. Gaurav Singla, Advocate for the petitioner

Ms. Palika Monga, DAG Haryana

SURYA KANT J. (Oral)

(1) The petitioner has laid challenge to the notifications dated 15.01.2008 and 14.01.2009 issued under Section 4&6 of the Land Acquisition Act, 1894, respectively to the extent the same pertain to acquisition of a small piece of land measuring 1 marla (11 ft. x 33 ft.) which the petitioner had purchased by way of registered sale deed dated 15.12.2000. The acquisition in question has been carried out by the State of Haryana for development of Sector 21 & 22 Part at Sirsa by HUDA.

(2) The foremost grievance of the petitioner is that the land adjoining his plot on both sides, where shops had been constructed, as well as the land behind his plot, has been released from acquisition but he has been denied such relief in a totally discriminatory and irrational manner. It is also averred that near to his small plot, there are big chunks of land owned by private builders which have also been released as CLU and licences were granted to them.

(3) The Land Acquisition Collector, Urban Estate, Hisar has filed the written statement on behalf of the official respondents. In preliminary

submission No.11 of the written statement, it is candidly acknowledged that the plot of the petitioner is a part of khasra No.25//5/30(0-1) and it falls within the proposed green-belt and that “Adjoining shops/structures of the land of petitioner is released”. It is also admitted that the petitioner has raised partial construction at the site.

(4) We have heard learned counsel for the parties at a considerable length and have also gone through the lay-out plan of Sector 21 & 22 Part, Sirsa, a copy of which is appended as Annexure R2 with the written statement.

(5) On a bare perusal of the site plan, it is seen that the shops adjoining both sides of the petitioner’s plot have been released from acquisition though such shops too fall in the green belt proposed to be developed on the existing Sirsa-Barnala road. It may be further seen from the lay- out plan that the land behind petitioner’s plot has also been released besides a big chunk of land released in favour of private builders.

(6) The only objection taken in the written statement for not releasing the piece of land of the petitioner is that it falls within the proposed green-belt. However, the record reveals that the Joint Site Inspection Committee constituted by the State Government pursuant to the directions issued by this Court in a bunch of writ petitions in its report dated 25.04.2014 (P11) duly acknowledged as follows:-

“The structure in Civil Writ Petition cited at Sr.No.1&2 falls in proposed green belt, planning of which has become infeasible due to the reason that the shops constructed prior to section 4 of the Act along the Sirsa-Barnala road were released as per order of the

Government dated 12.10.2011. The site in the above mentioned Civil Writ Petitions fell in the same green belt and due to the construction in the major portion, the green belt could not be planned and is ought to be dropped. The structures in these CWP's may be considered for release."

(emphasis by us)

(7) It thus stands established that though in the lay-out plan, green belt was proposed to be developed but the said proposal has been dropped as various structures falling in the green-belt were ordered to be released from acquisition in terms of the Government policy.

(8) Since no green-belt can be developed in view of the existing shops parallel to the plot of the petitioner, we see no reason to give a different treatment to the petitioner more-so when he had also raised partial construction at the site. Still further, the public purpose of developing green-belt cannot be achieved on a small piece of land measuring 1 marla.

(9) For the reasons afore-stated, the writ petition is allowed; the impugned notifications *qua* petitioner's land measuring 1 marla comprising khasra No.25//5/30(0-1) are set aside and that piece of land is ordered to be released from acquisition. The petitioner, however, shall be obligated to deposit the development charges for utilization of the site for the approved purpose.

(Surya Kant)
Judge

06.03.2018
vishal shonkar

(Shekher Dhawan)
Judge

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

Yes
No