

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13552-2018

Date of Decision: May 25, 2018

Crown Buildestates LLP

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

- | | | |
|----|---|---------|
| 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.Akshay Bhan, Sr.Advocate with
Mr.Abhishek Sanghi, Advocate
for the petitioner.

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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.

[3] Let requisite copies of the writ petition be handed over to him during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

[4] In view of the nature of the order, which we propose to pass, there is no need to seek any counter reply from the respondents at this stage as no order on merits prejudicial to their interest is being passed.

[5] Land of the petitioner-Company was sought to be acquired vide Notifications dated 06.08.2012 and 05.08.2013 issued under Sections 4&6 of the Land Acquisition Act, 1894 (for brevity,'the 1894 Act'). The petitioner-Company challenged the above-stated process of acquisition on the ground that it had already been granted 'change of land use' permission by the Town and Country Planning Department to develop the site as a 'Commercial-cum-Shopping Area'. On the other hand, Department of Tourism, Haryana wanted to utilise the petitioner's land for construction of Tourist complex. Keeping in view the conflicting interest of Government Departments, CWP No.19542 of 2013 filed by the petitioner-Company was disposed of by this Court on September 04, 2013 in the following terms:-

“[7] In this view of the matter when there is conflict of interest between different Government departments and the reputation of Town and Country Planning, as can be gauged from series of judicial pronouncements is susceptible of other than the bonafide considerations, we would rely upon the Chief Secretary of the State who is otherwise competent under the Rule of Business to convene a meeting of all the stake holders including the representative of the petitioner and take a holistic view as to whether or not the subject land be acquired for the notified 'public purpose'. Let an appropriate decision in this regard be taken by the State Government within a period of two months from the date of receiving a certified copy of this order.

[8] Till then, both the parties are directed to maintain status-quo.”

[6] The record reveals that the Chief Secretary, Haryana held a meeting on 21.10.2013 (Annexure P-10) in which the following decision was taken:-

“After detailed deliberation on the issue, Chief Secretary Haryana observed that final decision in the matter is to be taken by the Tourism Department whether they want to acquire this land or find out some alternate site. Therefore, the Chief Secretary Haryana called the representatives of the company for hearing. Sh.R.S.Gandhi, Director of the Company requested to release their land on the grounds mentioned in their Writ Petition. The Chief Secretary, Haryana asked them about the action taken for the execution of the project after obtaining the licence. Sh.Gandhi informed that they have obtained Environment clearance of the project and also finalised loan from Punjab and Sind Bank. Since the representatives of the Company did not bring any documents, therefore, they requested for grant of some time to submit the reply/representation in the matter. The Chief Secretary, Haryana, asked them to submit representation alongwith necessary documents to Tourism Department within two weeks, with a copy to Town & Country Planning Department. The Principal Secretary to Govt.Haryana, Tourism Department was directed to take a

decision in the matter with the approval of the competent authority.”

[7] Thereafter, the Department of Tourism took its own decision but eventually conveyed it vide letter dated 10.06.2016 (Annexure P-17) to the effect that the Tourism Department Haryana is not acquiring the petitioner's land.

[8] It may be mentioned here that since no Award was passed, Section 48 of the 1894 Act was not required to be followed and no formal notification for 'releasing' the land appears to be needed. The acquisition process stands lapsed and Notifications issued under Sections 4&6 of the 1894 Act qua the petitioner's land have by now become ineffective. The petitioner is, thus, at liberty to utilise its land in accordance with law. As regard to the alleged loss suffered by the petitioner, it shall be at liberty to approach the appropriate Forum to claim the damages in accordance with law.

[9] Disposed of.

(SURYA KANT)
JUDGE

May 25, 2018
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(SHEKHER DHAWAN)
JUDGE

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