

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 20197 of 2015

Date of Decision: 24.01.2018

Suraj Bhan

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Surya Kant.
Hon'ble Mr. Justice Shekher Dhawan.**

Present: Mr. Saravjit Singh Khurana, Advocate
for the petitioner(s).

Mr. Ankur Mittal, Additional Advocate General, Haryana
with Mr. Manoj Dhankar, Assistant Advocate General,
Haryana for the respondents.

Surya Kant, J.

The petitioner had earlier also approached this Court twice challenging the notifications dated 24.12.2002 and 15.12.2003 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”), respectively as well as the award dated 08.12.2005 to the extent of acquisition of his land, situated within the revenue estate of Rewari, Tehsil and District Rewari. The total land owned by the petitioner was 13 kanals 19 marlas, out of which more than 11 kanals was acquired. He questioned the acquisition on the ground that before issuance of notification under Section 4 of the Act, he had constructed (i) a residential house; (ii) a banquet hall, (iii) two small scale industrial units, (iv) Dharmkanta (weighing machine) and (v) a Samadhi.

The objections filed by the petitioner under Section 5A of the Act were rejected and being aggrieved, he filed Civil Writ Petition No. 2361 of 2004, which was disposed of by this Court on 19.12.2008 with a direction to the State of Haryana to consider his claim for the release of land in view of the existing constructions. Pursuant to those directions, petitioner's land measuring 2 kanals 12 marlas only was released and qua the remaining land his claim was rejected. Still aggrieved, the petitioner filed second Civil Writ Petition No. 18772 of 2011, which was substantially allowed by a Division Bench of which one of us (Surya Kant, J.) was member, laying down as follows:-

“12. Since the impugned order dated 28.08.2009 does not seem to have been passed relying upon a report given by the field staff and the said report appears to be inconsistent with the convincing documentary proof brought on record by the petitioner, we are of the considered view that the impugned order cannot sustain and the matter requires reconsideration by the competent authority.

13. Suffice it to observe that once the petitioner had taken a categorical stand in the very first opportunity while filing objections under Section 5A of the Act, it was imperative upon the competent authority to give an opportunity to him to produce the relevant documents to substantiate the plea of existing construction before arriving at any conclusion.

14. For the reasons aforestated, we allow this writ petition; quash the impugned order dated 28.08.2009 and direct the

Financial Commissioner-cum-Principal Secretary to Government of Haryana, Town and Country Planning Department, to decide the petitioner's claim afresh.”

It was further directed that:

“17. Needless to say that if the structures/buildings of similarly placed persons have been released, in that event, the petitioner would also be entitled to similar treatment.

18. Let the appropriate decision be taken by the State Government, within a period of four months from the date of receipt of a certified copy of this order. Till the decision is taken, the parties shall maintain status quo.

19. If the authorities resolve to release substantial part of the petitioner's structures/vacant land except to the extent that the land needed for widening of the road, the matter shall stand closed.....”

In deference to the above reproduced directions, State Government reconsidered the matter and vide impugned order dated 04.05.2015, most of the acquired land measuring 10 kanals 11 marlas has been ordered to be released. The operative part of the impugned speaking order is reproduced as follows:-

“....The land on which dharma kanta has been constructed is located away from the land whereon the rest of structures in the form of banquet hall and residential house have been constructed. Besides, it is not being used for any purpose at present. Further, 250 sq m area of the claim falls inside the

alignment of 12 m wide road. In view of the facts, that petitioner had raised construction of banquet hall and residential house on the claimed land after approval of the building plan from the Municipal Committee, Rewari and he had started raising construction on the land before issuance of notification u/s 4. Hence, it was recommended to the Governments that except the part of the land measuring approximately 250 sq m falling in the alignment of 12 m wide road and the land measuring 3K whereon dharma kanta has been constructed, the remaining land measuring 10K-11M may be released in favour of the petitioners, as per the details given below in the table:-

Khasra No. along with area		Area recommended for release	Area recommended to be acquired
179//10	(3-18)	(3-11)	(0-7)
179//30/4	(3-0)		(3-0)
180//6/1	(3-17)	(3-17)	
180//27/4	(0-12)	(0-12)	
180//27/6	(2-9)	(2-8)	(0-1)
180//29/3	(0-3)	(0-3)	
Total	(13-19)	(10-11)	(3-8)

The Government has approved above recommendation of the Department. Accordingly, the order is issued for release of land measuring 10K-11M comprising of khasra no.179//10min(3-11), 180//6/1(3-17), 27/4(0-12), 27/6min(2-8) and 29/3 (0-3). The petitioner be informed and LOI be issued in favour of the petitioner.”

It may be seen from the above reproduced order that only about 250 square yards of land which was acquired for alignment of 12 meters wide road, has not been released. Similarly, 3 kanal land, where Dharamkanta has been constructed, has also not been released.

Still dissatisfied, the petitioner has initiated this third round of litigation.

We have heard the learned counsel for the parties and gone through the record.

Keeping in view the fact that most of the acquired land has been released, we are satisfied that the petitioner has hardly any grievance left to be redressed. The decision for not releasing 250 square yards of land, which is needed for alignment of 12 meters wide road is in conformity with the directions issued by this Court vide judgment dated 19.03.2014. As regard to the land of Dharamkanta, which is lying defunct, the same is stated to be located away from the land where rest of the constructions have been raised. We, thus, leave it to the competent authority to reconsider the whole matter. It is directed that in case the petitioner gives an undertaking not to claim any compensation for the land, which is required to be utilized for alignment of 12 meters wide road, the competent authority may reconsider the desirability of releasing his 3 kanal land where Dharamkanta has been constructed, since that land is not needed for any public utility service. Let the petitioner submit a representation along with undertaking within a period of one month and such claim may be reconsidered to the extent mentioned above by the competent authority within a period of three months thereafter.

With the observations made above, the instant writ petition stands disposed of.

(Surya Kant)
Judge

(Shekher Dhawan)
Judge

January 24, 2018
“DK”

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