

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

CWP No.9082 of 2014
Date of Decision: 21.02.2018

Daulat Ram & Ors.

...Petitioners

VS.

State of Haryana & Ors.

... Respondents

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

Present: Ms. Anita Balyan, Advocate;
Mr. Adarsh Jain, Advocate;
Mr. Vikrant Hooda, Advocate; for the petitioners

Mr. Ankur Mittal, Addl. AG Haryana and
Mr. Manoj Dhankar, AAG Haryana

Mr. Akashdeep Singh, Advocate for NCRPB

SURYA KANT J. (Oral)

(1) This order shall dispose of CWP Nos.9082, 10698, 12318, 11492, 11480, 11517, 14408 of 2014; 24325 of 2016; 18467 of 2017; 1397, 1400, 3962 & 4058 of 2018 as in all these cases, the petitioners have laid challenge to the notifications dated 17.04.2002 and 10.04.2003 issued under Sections 4&6 of the Land Acquisition Act, 1894, respectively followed by Award dated 25.06.2004 whereby their lands/properties/residential houses falling within the revenue estate of villages Bahadurgarh, Balore, Sarai Aurangabad and Barkatabad, Tehsil Bahadurgarh, District Jhajjar have been acquired for the public purpose, namely, for development of residential, commercial and institutional Sector 1(Part), 10-11 (Part), 12&13 Bahadurgarh by HUDA.

(2) The question that arises for consideration in these cases is whether the acquisition of small parcels of land/residential houses/structures of the petitioners can sustain in law being an exercise of powers of *eminent*

domain by the State or the subject acquisition is liable to be set aside on the ground of discrimination, it being violative of Articles 14, 19 & 21 of the Constitution?

(3) It is the conceded position that a substantial part of the acquisition has already been quashed by this Court in various writ petitions including in **Reshma Footwears (P) Ltd. vs. State of Haryana and others (CWP No.2308 of 2004)** decided on 21.06.2010 and again in **CWP No.11412 of 2004 (Lehri Singh & Ors. vs. Union of India & Ors.)** which was allowed by this Court on 25.08.2011 on the strength of **Reshma Footwears (P) Ltd.** (supra).

(4) This very acquisition was subject matter of challenge in a bunch of writ petitions with lead judgment in **Girdhari Lal & Ors. vs. Union of India & Ors. (CWP No.17412 of 2004)** allowed on 21.04.2014.

(5) It is also undeniable that SLPs were preferred by the State of Haryana and HUDA against the decisions of this Court in **Reshma Footwears (P) Ltd.** as also in **Lehri Singh & Ors.** (supra) which were dismissed by Hon'ble the Supreme Court vide judgment dated 29.08.2012, approving all the reasons which found favour with this Court while quashing the acquisition in **Reshma Footwears (P) Ltd.** case.

(6) This Court in **Girdhari Lal & Ors.** case (supra) relied upon earlier decisions in **Reshma Footwears (P) Ltd.** as well as **Lehri Singh & Ors.** case. We are informed that no SLP in **Girdhari Lal & Ors.** case (supra) has been filed. The same has thus attained finality.

(7) What it emerges out is that a substantial part of the acquisition has been already quashed in the above-cited decisions. In this backdrop, the question that further falls for consideration is whether the respondents are in

a position to 'achieve' the public purpose of acquisition by retaining the small parcels of lands/structures etc. which are still under acquisition?

(8) The record reveals that this Court has time and again adjourned these cases to enable the State counsel to have instructions whether the authorities are inclined to re-consider the matter and take a holistic view regarding release the left out properties etc. which might not be sufficient enough to achieve the public purpose of acquisition. Learned State counsel submits that though he has written well in advance but the instructions are still awaited.

(9) In this view of the matter, we do not deem it necessary to keep these matters pending, rather dispose of these writ petitions with a direction to the State Government to consider the claim of the petitioners for the release of their respective property in the light of the above-cited decisions as well as the observations made hereinabove. The respondents are directed to take a final decision within four months from the date of receipt of certified copy of this order. Till such time, status quo re: possession of the petitioners' land/properties/structures/residential houses etc. shall be maintained.

(10) Ordered accordingly.

(Surya Kant)
Judge

21.02.2018
vishal shonkar

(Shekher Dhawan)
Judge

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

Yes
No