

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5103-2017

Date of Decision: May 01, 2018

Prem Sagar Garg

.....Petitioner

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: Ms.Neha Jain, Advocate for the petitioner.

Mr.Ankur Mittal, Addl.AG, Haryana with
Mr.Manoj Dhankhar, AAG, Haryana.

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SURYA KANT, J.

The petitioner and his family jointly own land measuring 3.64 acres, fully described in para 2 of the writ petition, situated within the revenue estate of Civil Lines, Jagadhri. Petitioner's case is that the above-stated land was sought to be acquired vide Notifications dated 21.08.2001 and 20.07.2003 published under Sections 36 and 42 of the Punjab Town Improvement Act, 1922 respectively (for brevity,'the 1922 Act'), but no Award was pronounced under Section 11A within two years from the date of publication of Notification under Section 42 of the 1922 Act. On this premise, it is urged that the acquisition lapsed and the petitioner's land was thus never acquired. The petitioner further alleges that Jagadhri

Improvement Trust and other local authorities are not permitting him or his family to utilise their above-mentioned un-acquired land as per law.

[2] No written statement has been filed by the respondents despite sufficient opportunities granted.

[3] We have heard learned counsel for the parties and gone through the averments made in the affidavit, dated 13.12.2016, filed by Principal Secretary to Government of Haryana, Urban Local Bodies Department in CWP No.4617 of 2014 (Prem Sagar vs State of Haryana and others), a copy of which has been appended by the petitioner as Annexure P17. It is averred that the said affidavit pertains to a parcel of land which was also sought to be acquired vide above-mentioned Notifications and in the affidavit, it is candidly acknowledged that no Award was passed within the prescribed period.

[4] Be that as it may, whether or not the Award within the prescribed statutory period was passed in respect of the land of the petitioner is essentially a question of fact which can be verified from the record. Needless to say that if the land has not been acquired in accordance with law, the petitioner and his family are fully entitled to utilise the land as per the zoning plan of the area. However, if the land has been acquired, they are entitled to compensation in accordance with law which is said to have not been paid till date.

[5] In this view of the matter, the instant writ petition is disposed of with a direction to the Principal Secretary to Government of Haryana, Urban Local Bodies Department as well as Jagadhri Improvement Trust, Jagadhri,

was acquired in accordance with law? An appropriate decision shall be taken by way of a reasoned order in the light of the above-mentioned observations within a period of four months from the date of receipt of a certified copy of this order. If it is found that the acquisition process had lapsed and the land has not been acquired so far, the petitioner be permitted to use his land in accordance with law. Till such time status quo shall be maintained.

**(SURYA KANT)
JUDGE**

May 01, 2018
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**(SHEKHER DHAWAN)
JUDGE**

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