

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 02.12.2019

1). CWP-9605-2016 (O & M)

D.S. Realtors Pvt. Ltd. and ors.

.... Petitioner(s)

V/s

Union of India and ors.

...Respondent(s)

2). CWP-9629-2016 (O & M)

D.S. Realtors Pvt. Ltd. and ors.

.... Petitioner(s)

V/s

Union of India and ors.

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Narender Hooda, Sr. Advocate, with
Ms. Payal Chawla, Advocate,
Ms. Snigdha Dash, Advocate and
Mr. Sandeep Suri, Advocate, for the petitioner.

Mr. Alok Kumar Jain, Sr. Panel Counsel,
for UOI.

Mr. B.R. Mahajan, Advocate General, Haryana,
with Mr. Ankur Mittal, Addl. A.G., Haryana.

RAJAN GUPTA, J. (Oral)

This order shall dispose of two writ petitions i.e. CWP-9605-2016 and CWP-9629-2016. For brevity, facts are being taken from CWP-9605-2016.

Petitioner is a company incorporated under the Companies Act, 1956 and having its registered office at Delhi. Petitioners No.1 to 7 are subsidiaries of the company-Dharampal Satyapal Limited. Petitioners claim to be owner-in-possession of their respective parcels of land purchased by the petitioners between the period April, 2005 to March, 2008. Details of the said land are depicted in the green colour in the map, Annexure P-3. On May 29, 2007, petitioner No.1 in terms of the Special Economic Zone Act, 2005 and rules made thereunder made an application seeking approval for setting-up a Special Economic Zone (SEZ) for Information Technology at village Kukrola and Village Sehrawan in the said land. On July 24, 2007 after completion of due process, the application of the petitioners for setting-up of SEZ in Haryana was formally processed and recommended. As per the petitioners on October 23, 2007, a formal approval for setting-up of the SEZ was also granted by respondent No.1. However, vide Notification dated April 25, 2008 issued under Section 4 of the Land Acquisition Act, 1894, the State sought to acquire the land in question. On April 22, 2009, Notification under Section 6 of the Land Acquisition Act, 1894 covering an area of 3325 Acres 3 Kanals and 16 Marlas was also issued. As per the petitioners, the Director of Industries and Commerce, Haryana vide its letter dated August 25, 2009 to M/s Chinar Estates Pvt. Ltd. informed that it was decided by the State Government to release its land measuring 54.9 Acres for setting-up of Cyber City.

Petitioners *inter alia* state that this amounts to discrimination. They have been treated unfairly as they had a formal approval for setting-up of SEZ which could be considered deemed permission for change of land

users under Section 4(4) of Haryana Special Economic Zone Act, 2005. Petitioner No.1, thus, made a representation to the State and sought release of the subject-pieces of the land in villages of Kukrola and Sehrawan. As per the petitioners certain other projects such as M/s K.S. Projects, S.R. Infrastructure and HESS Hospitality were similarly released land from the acquired land on the ground that they had applied for change of land use (CLU) permission prior to issuance of Notification under Section 4 of the Land Acquisition Act. On March 01, 2011, a writ petition under Article 32 of the Constitution of India was filed before the Hon'ble Supreme Court titled as 'Fertile Land Protection Movement and Others versus Union of India bearing WP(C) No.113 of 2011 wherein it was prayed that the Notifications for acquiring the land in question be quashed. The said case was, however, remanded to this court on August 06, 2014 for decision with a direction that this court may decide the same alongwith CWP-2251-2006. Aforesaid order reads as under:-

“At the outset, we are informed that the challenge to the provisions of the Special Economic Zone Act, 2005 is also under consideration before Punjab & Haryana High Court in a large number of cases.

2. Having regard to the above, we transfer this writ petition to the Punjab & Haryana High Court to be heard alongwith CWP-2251 of 2006, titled “Rajesh & Others vs. State of Haryana and Others”. The Registry of the Punjab & Haryana High Court, on receipt of the record, will renumber the writ petition and place before the Court for hearing and final disposal alongwith CWP No.2251 of 2006 and other group matters.”

The said writ petition i.e. CWP-2251-2006 was, in fact, decided by a co-ordinate Bench on November 07, 2016. However, the petition which was remitted by the Hon'ble Supreme Court was renumbered as CWP-18940-2014, remained pending. Same is listed alongwith other cases today. It appears that the order was passed by the Hon'ble Supreme Court on April 25, 2011 wherein stay of further proceedings pursuant to the Notifications impugned in the writ petition, was granted. Though said order does not find mention in the final order passed wherein cases have been remitted to this court for decision yet counsel are *ad idem* that stay continues to operate.

Prayer before this court is, thus, to consider the case of the petitioners for release of land on the same lines as other projects names whereof have been mentioned in the foregoing paragraphs. According to Mr. Hooda, this is necessary in order to ensure that there is no discrimination on the part of the State while taking decision on important issues of acquisition and release of land. Though the pleas raised by the petitioners have been rebutted by the State in its reply, admittedly, no speaking order has been passed till date.

Mr. Mahajan, learned Advocate General, Haryana, states that a high-powered committee shall be constituted to consider the claim of the petitioners and a decision shall be taken after affording an opportunity of hearing to some of their authorized representatives. Decision shall be taken expeditiously preferably within a period of four months.

At this stage, Mr. Jain, learned counsel appearing for UOI submits that in the eventuality, a decision is taken by the State of Haryana

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for release of the land, the question of extension of approval for setting-up of a SEZ by the petitioners shall be reconsidered in terms of the Special Economic Zone Act, 2005.

In view of the above, present petitions are hereby disposed of.

CM-8531-CWP-2018 in CWP-9605-2016
& CM-8530-CWP-2018 in CWP-9629-2016

Since the writ petitions are disposed of, no order is required to be passed in the applications.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

December 02, 2019
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No