

**RA-CW No.71 of 2018 in
CWP No.3408 of 2017**

Azad Singh and others vs. State of Haryana and othes

Present:- Mr. N.D. Achint, Advocate,
for the applicant-petitioners.

Mr. Ankur Mittal, Addl. AG, Haryana.

This application has been moved under Articles 226/227 of the Constitution of India read with Order 47 Rule 1 CPC for review of order/judgment dated 24.10.2017 passed by the Division Bench of this Court in CWP No.3408 of 2017.

Learned counsel for the applicant-petitioners submits that the order passed in the main writ petition is contrary to the pleadings and arguments, which appears to be inadvertent as facts of other case have been taken into consideration. Learned counsel further submits that prayer in the present writ petition is totally different and the land of the applicant-petitioners was acquired for the purpose of construction of Metro Rail Track, which was a public purpose. Even the petitioners did not file any objection to the acquisition. The land of the petitioners was acquired partly and left out land cannot be utilized for any purpose. Learned counsel also submits that the left out portion of the land is useless and uncultivable, which cannot be utilized in any manner. Initially, the request of the petitioners was orally accepted and assurance was given to acquire the left out portion of the land but subsequently, the request was not accepted. At the end, learned counsel for the applicant-petitioners submits that the order passed by the Division Bench is contrary to prayer and pleadings and the mistake is

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apparent on record. There is no other remedy except to file this review application.

Notice in the application was issued on 13.09.2019.

Learned State counsel has not disputed the factual position regarding acquisition of land of the applicant-petitioners; passing of award as well as receipt of compensation. However, learned State counsel submits that the applicant-petitioners were having remedy of appeal and no appeal has been filed. Learned State counsel further submits that the order was passed on 24.10.2017 whereas the present review application was filed on 07.03.2018 and an objection was also raised by the Registry.

Heard arguments of learned counsel for the applicant-petitioners as well as learned State counsel and we have perused the documents available on the file especially the prayer made in the main writ petition.

As per case of applicant-petitioners, they are owner in possession of land comprising in rectangle No.22, Killa No.8, 9, 12/1, 12/2, 19, 20 and 21/1 situated in Village Rathiwas, Tehsil Manesar, District Gurugram as per jamabandi for the year 2013-14. After issuance of notifications under Sections 4 and 6 of the Land Acquisition Act, the award was passed on 02.01.2017 (Annexure P-6). The applicant-petitioners did not file any objection as they were interested in acquisition of their land. Some land was left out and the same could not be utilized and cultivated as adjoining land had been acquired by the respondent-State.

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The applicant-petitioners are aggrieved by the action of the respondent-authorities in not acquiring the left out land, which was part of land acquired by the State. When request of the applicant-petitioners was not accepted, they filed the writ petition before this Court with the prayer to direct the respondent-authorities to acquire the left out land. Vide order dated 24.10.2017, the writ petition was disposed of by the Division Bench. On perusal of pleadings as well as the prayer made in the petition, judgment dated 24.10.2017 appears not to have been passed as per pleadings and prayer made in the present writ petition. It might have happened due to some inadvertent mistake or due to tagging with other petitions. The argument of learned counsel for the applicant-petitioners is that the order passed in the main writ petition is contrary to pleadings and arguments and facts of other case, have been taken into consideration.

Admittedly, the pleadings and prayer made in the main writ petition are totally different. Meaning thereby, the mistake is there which is apparent on record and inadvertently facts of other case have been taken into consideration while passing the judgment/order, which is a good ground to review the order. Moreover, the award has already been passed and amount of compensation has also been received. The prayer of the applicant-petitioners is to acquire the left out/un-utilized land as per site plan (Annexure P-8).

There is a mistake or error apparent on the face of record and sufficient reasons are there to review the order.

***RA-CW No.71 of 2018 in
CWP No.3408 of 2017***

-4-

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In view of facts as mentioned above, the present review application is allowed. Order dated 24.10.2017 is recalled and main case i.e. CWP No.3408 of 2017 is restored to its original number and status and be listed for arguments before the appropriate Bench on 05.12.2019.

**(DAYA CHAUDHARY)
JUDGE**

**04.10.2019
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**(GURVINDER SINGH GILL)
JUDGE**