

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

**CWP No.9691 of 2020
Date of decision:13.07.2020**

Asha Rani and another

...Petitioners

Versus

State of Haryana and others

...Respondents

**CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Ashok Kumar Verma**

Present: Mr. Pankaj Gupta, Advocate,
for the petitioners.

Rakesh Kumar Jain, J.

Case taken up through Video Conferencing.

The petitioners have challenged the notification dated 21.12.1998 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act"), the notification dated 20.12.1999 issued under Section 6 of the Act and the award dated 19.12.2001 passed by the Collector under Section 11 of the Act in respect of the land measuring 45 Kanal 14 Marla, comprised in Khasra Nos.183//1/1(6-4), 1/2(1-16), 2(8-0), 8/2(1-4), 9(8-0), 10(8-16), 12(3-18), 13(0-18) NS 13/2(6-18), situated in village Basti Bhima, Hadbast No.133, Tehsil and District Fatehabad and also for quashing the order dated 25.03.2019

passed by the Director, Urban Estates Department, Haryana, by which the prayer made by the petitioners for release of their land has been declined and for quashing the notice dated 14.03.2020 by which the petitioners have been asked to vacate the land in question on or before 21.03.2020.

In brief, one Ashok Kumar S/o Ganpat Ram was the owner of the land in question from whom the present petitioners have derived their title by way of a Will. Vide notification dated 21.12.1998, issued under Section 4 of the Act, 143.46 acres of land, situated in the revenue estate of village Basti Bhima, Hadbast No.133, Tehsil and District Fatehabad, including the land in question, was notified to be acquired for development and utilization of land for residential and commercial area at Fatehabad. Ashok Kumar filed the objections under Section 5-A of the Act, however, the Collector recommended acquisition of the land on the ground that it was vacant at the time of issuance of notification under Section 4 of the Act.

The Land Acquisition Collector announced the award of the acquired land on 19.12.2001 in respect of 141.11 acres of land. Ashok Kumar, predecessor-in-interest of the petitioners, challenged the acquisition proceedings by way of CWP No.6973 of 2002, which was partly allowed because direction was issued to release the constructed buildings along with proportionate vacant area from acquisition if the constructions were not coming in the road, green belt and was not earmarked for any other public infrastructural facilities. It was further directed that a Committee should be constituted of the officers of the State of Haryana to consider the claim of the petitioner(s) in the regard to the

observations noticed here-in-above. However, the notifications issued under Sections 4 and 6 and the award were upheld. Pursuant to the directions issued by this Court in the lead case bearing CWP No.18365 of 2001 on 22.11.2010, the Director, Urban Estates Department, Haryana decided the issue regarding release of the land of the petitioners vide his impugned order dated 25.03.2019 wherein it was found that the land owned by Ashok Kumar measuring 44 Kanal 14 Marla (Killa Nos.183/1/1, 1/2, 8/2, 9, 10, 12, 13/1, 13/2 of village Basti Bhima) was vacant and, therefore, was not qualified for the purpose of release.

The petitioners, who had earlier unsuccessfully challenged the notifications issued under Sections 4 and 6 of the Act and the Award passed under Section 11 of the Act, have again challenged the same in this writ petition together with the order dated 25.03.2019 passed by the Director, Urban Estates Department, Haryana and also the notice dated 14.03.2020, by which the petitioners were directed to vacate the land in question which has already been acquired and vested in the State Government.

Counsel for the petitioners has vehemently argued that the case of the petitioners is at par with the case of Aggarwal Paper Board and Allied Industries in CWP No.18365 of 2001, therefore, the land in question also deserves to be released from acquisition. It is further submitted that the respondents have adopted a policy of discrimination against the petitioners and violated Article 14 of the Constitution of India.

We have heard learned counsel for the petitioners and perused the record with his able assistance.

CWP No.18365 of 2001 was the lead case decided by this Court along with 13 other cases including the earlier writ petition bearing CWP No.6973 of 2002 filed by the predecessor-in-interest of the petitioner and in that case, this Court had noticed the facts that the petitioner(s) in the lead case, i.e. Aggarwal Paper Board and Allied Industries, had purchased 41 Kanal 8 Marla in the year 1980, which fell within the Municipal Limits of Fatehabad City, on which, after taking necessary permission, an industry to manufacture straw board and other allied products was set up. While disposing of the said writ petition, the Court had found that the land on which the buildings are constructed, should be released from acquisition along with proportionate area if the construction do not interfere in the road, green belt and is not earmarked for any other public infrastructural facilities. The aforesaid direction was issued by this Court only to protect the constructed factory(ies)/structures from acquisition and their ultimate demolition but there is no such direction by this Court even to protect the vacant area from acquisition. Otherwise, had it been the intention of this Court, then the entire acquisition proceedings would have been lapsed or quashed.

Learned counsel for the petitioners has fairly conceded that there is no construction on the land in question and even at the time of issuance of notifications issued under Sections 4 and 6 of the Act, which has rightly been noticed by the Land Acquisition Collector when the objections under Section 5-A of the Act were decided by him and also by the Director, Urban Estates Department, Haryana when the impugned order dated 25.03.2019 was passed by him.

No other point has been raised.

In view of the aforesaid discussion, we do not find any merit to interfere in this writ petition for the purpose of granting the relief, as prayed for, and hence, the same is hereby dismissed, though without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

July 13, 2020
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(ASHOK KUMAR VERMA)
JUDGE

<i>Whether speaking / reasoned</i>	:	Yes	/	No
<i>Whether Reportable</i>	:	Yes	/	No