

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

CWP-18140-2017 (O&M)
Date of decision: 19.2.2020

Mehar Singh and others

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Baldev Singh Badhran, Advocate, for the petitioners.

Mr. Ankur Mittal, Addl. AG, Haryana.

KARAMJIT SINGH, J.

The petitioners have filed this petition for issuance of a writ in the nature of mandamus/certiorari, directing the respondents to release their land measuring 12 Biswas comprised in Khasra No.41(1-0) and 44(0-2), in which, the petitioners have already constructed their house.

The case of the petitioners is that the petitioners had constructed a residential house in the land measuring 3 Bigha 2 Biswas where they are residing along with their families. Electricity and water connection was installed in the said house. State of Haryana issued notification dated 30.11.2006 under Section 4 of the Land Acquisition Act to acquire the land including the land of the petitioners. Copy of said notification is Annexure P-3. The petitioners filed objections (Annexure P-5) under Section 5-A of the Land Acquisition Act on 26.12.2006. Notification (Annexure P-4) under Section 6 of the Land Acquisition Act was issued by the Government on 28.11.2007 by ignoring the aforesaid

passed by the Land Acquisition Collector on 26.11.2009. The petitioners gave representation (Annexure P-7) to release their house from the acquisition as the same was being occupied by them for the last 30 years. However, the respondents failed to take any action on the said representation. At the same time, the respondents released two vacant plots situated in Khasra No.49 and 43 belonging to Rajinder Kumar from acquisition vide Annexure P-9. Even the house of Pushpa Pandey was also released from acquisition by the respondents vide Annexure P-10. The house of the petitioners deserves to be released from acquisition on the basis of parity, otherwise, it will amount to discrimination against the petitioners. Hence, the writ petition was filed.

On notice of motion, the writ petition was contested by the respondents. Respondents No.5 and 6 filed joint written statement admitting the fact regarding the acquisition of the land including the land of the petitioners on the basis of award dated 26.11.2009. Possession of the acquired land was taken by HUDA and the compensation was received by the land owners including the petitioners regarding their acquired land. The value of the structure existing at the spot was assessed as ₹ 1,24,744/- and the compensation with regard to said structure is lying with the Land Acquisition Collector. Petitioner No.1 and the predecessors-in-interest of the remaining petitioners filed reference under Section 18 of the Land Acquisition Act and the Reference Court enhanced the amount of compensation. Even the enhanced compensation with regard to land was received by petitioner No.1 and the predecessors-in-interest of the remaining petitioners on 21.4.2015. It was further pleaded that the writ

We have heard counsel for the parties and gone through the record.

It is not disputed that notification under Section 4 of the Act was issued on 30.11.2006 and after the disposal of objections under Section 5-A of the Act, notification under Section 6 of the Land Acquisition Act was issued on 28.11.2007 and finally, award was passed on 26.11.2009. Compensation regarding their acquired land was paid to the petitioners/their predecessors-in-interest. The compensation was enhanced by the reference Court under Section 18 of the Land Acquisition Act. Even the enhanced compensation regarding the land was received by the petitioners/their predecessors-in-interest.

The petitioners have sought release of their land, in which their house was already existing. The case of the petitioners is that two vacant plots belonging to Rajinder Kumar and one residential house belonging to Pushpa Pandey were already released by the Government from attachment. Counsel for the petitioners contended that all similarly situated persons should be treated similarly. It is further contended that there could be no justification, whatsoever, for not according similar treatment to the petitioners. Counsel for the petitioners further urged that State Government's refusal to release the land of the petitioners, resulted in violation of their right to equality under Article 14 of the Constitution of India. It is prayed that the writ petition be allowed.

As per State Government, after the passing of the award dated 26.11.2009, compensation was paid to the land owners including the petitioners/their predecessors-in-interest. They were also paid enhanced

under Section 18 of the Land Acquisition Act regarding their acquired land. Learned State counsel contended that now at this belated stage, no relief can be granted to the petitioners.

The plea of the petitioners is that their residential house is there in the land in question for the last more than 30 years. The petitioners have alleged discrimination on the ground that two vacant plots comprised in Khasra No.43 and 49 belonging to Rajinder Kumar and one residential house of Pushpa Pandey were released from acquisition by the concerned authorities.

From the perusal of Annexures P-9 and P-10, it is not clear as to whether the properties of Rajinder Kumar and Pushpa Pandey were released from acquisition by the authorities before or after the passing of award dated 26.11.2009. It is also not clear as to whether the said properties were adjoining to or within the vicinity of the property in question. Prior to this writ petition, the petitioners never challenged the notifications issued under Sections 4 & 6 of the Land Acquisition Act and the award. It is not clear as to why the petitioners remained silent for such a long time. Also as per the respondent's, only C-class non residential construction was existing at the spot which was used for the purpose of cattle shed. In the absence of any specific recent instance of release of land on pick and choose basis or indiscriminately, we are unable to interfere with the subject acquisition.

Consequently, this writ petition is dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

February 19, 2020

Paritosh Kumar

PARITOSH KUMAR
2020.02.20 17:14
I attest to the accuracy and
authenticity of this document

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No