

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

CWP No. 17711-2021
Date of decision 21.09.2021

Krishna Devi and others

...Petitioners

vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. P.R. Yadav, Advocate,
for the petitioners

Mr. Ankur Mittal, Addl. A.G., Haryana
and Mr. Saurabh Mago, AAG, Haryana.

Ritu Bahri, J. (Oral)

The present writ petition is for quashing notification dated 14.03.2012 (P-3) issued under Section 4 of the Land Acquisition Act, 1894 (for short 'Act 1894'); notification dated 31.01.2013 (P-4) issued under Section 6 of Act 1894 by the Transport Department of State of Haryana and award dated 22.04.2013 (P-5) passed by the District Revenue Officer-cum-Land Acquisition Collector, Rewari.

Brief facts of the case are that mutation was sanction in favour of predecessor-in-interest of the petitioners, on the basis of sale deed dated 11.04.2005. Copy of mutation No. 15880 sanctioned on 19.11.2005 is annexed as Annexure P-1. After purchase of the land, predecessor-in-interest of the petitioners had constructed a house and were shown as owner in possession. A copy of jamabandi for the year 2018-19 has been annexed as Annexure P-2.

On 14.03.2012 (P-3), a notification under Section 4 of the Act 1894 was issued for public purpose namely for construction of New Bus Stand Rewari and the land of the petitioners was sought to be acquired. Thereafter, a notification dated 31.01.2013 (P-4) was issued under Section 6 of Act 1894 by the Transport Department of State of Haryana for acquisition of the land of the petitioners.

Thereafter, award dated 22.04.2013 (P-5) pertaining to the land of the petitioners comprised in Rectangle No. 108, Killa No. 5/2(7-16) was passed by the Land Acquisition Collector Rewari for acquisition of land in question.

The grievance of the petitioners before this Court is that even if the house of the petitioners are excluded from the impugned acquisition still the Bus Stand can be constructed over the remaining land, which is one alignment. The houses of the petitioners are just in one corner and same cannot be said to be affecting the establishment of new Bus Stand in any manner. Even ISBT Delhi is situated on only 5.3 acres of land and more than 1800 buses ply daily from this Bus Stand.

On the other hand, learned State counsel at the very outset has referred to order dated 18.12.2020 passed in CWP No. 21930-2020 (P-7) in which notice of motion was issued by this Court. Challenge in this writ petition was to the same notification, as sought in the present writ petition. Reference was made to CWP No. 20463-2006 titled as ***Rajinder Singh and others vs. State of Haryana and others***. Learned State counsel states that the above petition is still pending and thus, the present petitioners cannot claim parity.

Reference has further been made to CWP No. 8439-2013,

wherein the challenge was to the same notifications dated 14.03.2012 and 31.01.2013 and the petition stands dismissed on 11.12.2015 by a Division Bench of this Court. SLP bearing No. 16619-2016 filed against the judgment dated 11.12.2015 also stands dismissed on 13.01.2020.

Heard learned counsel for the parties.

A bare perusal of the judgment dated 11.12.2015 passed in CWP No. 8439-2013 shows that the petitioner was owner of the land situated in Village Rewari, Tehsil and District Rewari, which stands notified for a public purpose i.e to construct a bus stand at Rewri, District Rewari, vide aforesaid notifications. The acquisition was challenged on the ground that in the final Development Plan published on 18.03.2009 under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, the area demarcated for construction of Bus-stand is in Section 12 having legend No. 420, whereas the land of the petitioner is reserved for open space having legend No. 700. The petitioner has also referred to the communication dated 13.09.2010 from the Administrator, HUDA, Gurgaon to the Chief Administrator, HUDA (Town Planning Wing), Panchkula to the effect that a site measuring 20 acres in Sector – 20 (Residential) has been identified for construction of bus-stand for which approval was sought. The petitioner has also referred to the draft Development Plan – 2031 around Municipal Town Rewari and Controlled Area around Primary School Village Khaliawas. A perusal of the said Plan shows that the Legend 400 is for transport and communication, whereas Legend 420 within that area is for roads, road transport depot and parking areas dockyard.

In the above writ petition, the affidavit dated 21.05.2014 was filed by the General Manager, Haryana Roadways, Rewari stating therein

that the proposal for shifting of the existing bus-stand at Rewari was considered during the Development Review Session in October, 2006. It was noticed that Rewari town is one of the most congested town of Haryana because of its industrial and commercial prominence and the existing bus stand in the town was adding to the ever increasing congestion in the interior ring and that it would be in larger public interest to shift the existing bus stand to a new site on Dahruhera Road. It was proposed to acquire 20 acres land for general bus stand out of which 16 acres of land was reported to be already acquired by HUDA. Therefore, for Regional Transport within Manesar Bawal Investment Region (MBIR) and to the town in immediate vicinity of MBIR, the existing bus stand will be utilized. The new site measuring 20 acre 5 kanal 16 marla of land was approved by the Government on 21.03.2011. Therefore, the acquisition process was initiated and completed. The Directorate of Town and Country Planning Haryana sought relaxation in zoning regulations to permit construction of bus-stand in open space of Sector 12, Rewari. The relaxation was granted vide letter dated 13.07.2015.

The Court dismissed the writ petitions by relying upon various judgments and held that the purpose of acquisition cannot be permitted to be disputed only for the reason that in the Development Plan published under the 1963 Act has contemplated different use for the area in question. It may be noticed at this stage that even the user of the land stands amended in terms of Section 24 of the 1963 Act as also Clause XX of the Draft Development Plan – 2021 and Draft Development Plan – 2031. The land in question is now contemplated to be used for bus-stand. The operative part of

the judgment read as under:-

*“The acquisition of land for a public purpose other than the use as specified in the Development Plan has been examined by the Hon’ble Supreme Court in number of cases. In **Aflatoon Vs. Lt. Governor of Delhi**, (1975) 4 SCC 285, the Constitution Bench observed as under:*

“23.In other words, the fact that actual development is permissible in an area other than a development area with the approval or sanction of the local authority did not preclude the Central Government from acquiring the land for planned development under the Act. Section 12 is concerned only with the planned development. It has nothing to do with acquisition of property; acquisition generally precedes development. For planned development in an area, other than a development area, it is only necessary to obtain the sanction or approval of the local authority as provided in Section 12(3). The Central Government could acquire any property under the Act and develop it after obtaining the approval of the local authority.”

*In **Jai Narain Vs. Union of India** (1996) 1 SCC 9, the Hon’ble Supreme Court examined the similar argument and held as under:*

“12. So far as the second contention raised by Mr. Vashisht, the same is mentioned to be rejected. Whatever may be the user of the land under the Master Plan and the Zonal Development Plan the State can always acquire the same for public purpose in accordance with the law of the land. In any case the object and purpose of constructing the STPs is to protect the environment, control pollution and in the process maintain and develop the agricultural green.”

*Later in **Ajay Krishan Shinghal Vs. Union of India** (1996) 10 SCC 721, the Hon’ble Supreme Court has held to the following effect:*

“7.Once a public purpose has been specified by the

Governor in the notification and on specification obviously on presumptive satisfaction thereof the Governor issued the notification as required under Section 4(1); the absence of the specification and further elaboration of the development do not have the effect of rendering the satisfaction reached by the Governor illegal and the notification under Section 4(1) published by the Governor in exercise of the power of eminent domain is not rendered void. Therefore, it is not necessary to elaborately deal in detail with the manner in which the development has to be undertaken when the land is situated within the cantonment area. In fact, Section 12(3)(ii) of the Development Act takes care of the development in cantonment area when there would be a conflict between the authorities under the Development Act and the need for prior approval in that behalf of the cantonment, which is a local authority, for developing land under the Development Act. As a fact, except the land in question, the land in Naraina was developed as per plan. Under those circumstances, since the High Court has elaborately dealt with this aspect of the matter in the judgment running into 129 pages, we feel it unnecessary to burden this judgment with further discussion in that behalf. Accordingly, we hold that the notification under Section 4(1) is not vitiated on account of the fact that planned development was not specified with particularisation of the land in question needed for the public purpose.”

*In **Bhagat Singh Vs. State of U.P.**, (1999) 2 SCC 384, the Hon’ble Supreme Court reiterated that there is no need that the land proposed to be acquired for a particular public purpose should be for the same purpose or use mentioned in the Master Plan or Zonal Plan for the said area. It has been held as under:*

“22. As pointed out in the above judgments, there is no need that the land proposed to be acquired by the Government for a particular public purpose should be for the same purpose or use mentioned in the Master Plan or Zonal Plan for the said area. Nor will the acquisition be invalid merely because the land

proposed to be acquired is for a purpose other than the one permitted by the Master Plan or Zonal Plan applicable to that locality. Acquisition will be valid if it is for a public purpose even if it is not for the type of user permitted by the Master Plan or Zonal Plan in force at the time the acquisition is made. It will be for the beneficiary of the acquisition to move the competent authority under the Development Act and obtain the sanction of the said authority for suitable modification of the Master Plan so as to permit the use of the land for the public purpose for which the land is acquired. In fact, it may be difficult for the beneficiary of the acquisition to move the competent authority under the Development Act seeking permission to change of land use even before the land is acquired or before possession is given to the beneficiary. On the principle stated in Aflatoon case (supra) it is clear that acquisition for a public purpose and obtaining permission from the competent authority under the Development Act concerned for change of land use are different from one another and the former is not dependent upon the latter.”

Thus, in the facts of the present case, as far as acquisition of the land for the purpose of construction of Bus Stand, has attained finality. Further the present writ petition was filed in the year 2021 after a gap of almost 8 years, from the date of passing of award on 22.04.2013.

In view of the above factual position, the present petition is dismissed.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

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