

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

CWP NO.19268-2020

Date of Decision: 12.02.2021

BARU RAM AND ANR.

....PETITIONERS..

Versus

STATE OF HARYANA AND OTHERS

....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

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

Ms. Shruti Jain Goyal, DAG, Haryana.

SANT PARKASH, J.

*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court)*

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to give alternative shop site in the newly developed auto-market, Hansi after development at reasonable price on no profit, no loss basis.

Learned counsel for the petitioners has contended that the petitioners took shops on rent for doing small business in the year 1981, 1989 & 1990 respectively, which were constructed on the land owned by Satish Chander, Ashok Kumar purchased by them in auction in the year 1967 by the custodian department. Total 132 shops were constructed, out of which some shops were

in possession of the owners of the land and rest were given on rent. State of Haryana issued notification dated 12.06.1995 (Annexure P-5) under Section 4 of the Land Acquisition Act, 1894 (for short, "Act"), to acquire the aforesaid land in question for development of auto market and for other development, against which, land owner and the tenants filed objections under Section 5 of the Act. The Collector gave a report in their favour and recommended to leave the shops in question from acquisition. Despite the recommendations of the Collector, notification under Section 6 of the Act was issued. Aggrieved land owners and the shopkeepers filed CWP No.5090, 5110 and 5270 of 1997 challenging the acquisition on various grounds and notice was issued and stay was granted in favour of the shopkeepers. Upon notice of the aforesaid CWPs, counsel for respondent-State made a statement in the court that Govt. will offer auto shops site in the newly development auto market at reserve price at no profit no loss basis. Counsel for the petitioners accepted the offer and writ petitions were disposed of in terms of the statement made by counsel for respondent-State. Thereafter, neither the shops sites were given nor the area was developed. On 03.12.2016, petitioners were asked to vacate the shops, otherwise the same shall be demolished despite the fact that shop sites have not been offered or given to the shopkeepers. The petitioners have also moved representation but till date no response has been received, rather, officials of the respondent-department are extending threats of demolition of the present shops in question.

Pursuant to notice of motion, reply/written statement has already been filed and taken on record.

Learned counsel for the respondents submits that the petitioners have

claimed the alternative sites for acquired shop existed in Khasra No.1179, which was taken on rent from Satish Chander and Ashok Kumar and as per record, the shops in question exists in Khara No.1184/1185 min, which was owned by LR's of Satish Chander and Ashok Kumar. The payment of awarded compensation as well as enhanced compensation has already been received by the original land owners. Since, as per record, LR's of Satish Chander and Ashok Kumar were the owners of the land comprising Khasra No.1184/1185/1186/1187 and petitioners are not the owners, therefore, the petitioners have wrongly claimed the alternative site for acquired shops comprised in Khasra No.1179. As such, prays for dismissal of present petition.

We have heard learned counsel for the parties and perused the paper-book.

Perusal of reply/written statement reveals that the LR's of Satish Chander and Ashok Kumar were the owners of the land comprised in Khasra No.1184/1185/1186/1187. The petitioners have wrongly claimed the alternative site for acquired shops comprised in Khasra No.1179. Moreover, payment of awarded compensation as well as enhanced compensation has already been received by the original land owners. Otherwise also, as per report of Estate Officer, HSVP, Hisar, the original land owners (LR's of Satish Chander and Ashok Kumar) have not submitted any application for allotment of alternate site. It is submitted that the Bio-metric Survey was conducted on 10.04.2015 and total 452 shops existed in the acquired land. As per this report, the names of petitioners were not included in the list. Public notice was published in the general public for submitting their necessary documents for allotment of alternate site but the petitioners did not submit any document in

the office.

Referring to para 12 of the written statement/reply, it is contended that some plots are still lying vacant and petitioners should be allotted the said plots/sites on the plea that they were already having the shops in the old Sabji Mandi. This submission is totally misconceived. Learned counsel for the petitioners has not read the said para completely, wherein, it is mentioned that some plots are vacant at Hansi and when the applications are received from the land owners for alternate site, then the same will be decided in accordance with the provisions of Haryana Shahari Vikas Padhikaran Act and Government Policy. Admittedly, the petitioners were not the owners of the shops in the old Sabji Mandi, they cannot stake their claims for the allotment of the alternative site.

In view of the averments made in the reply/written statement, it has become crystal clear that the petitioners were not the owners of the land in question, therefore, question of giving alternative shop site in the newly developed auto-market does not arise.

In view of the above, instant petition is dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

12.02.2021

sonika

whether speaking/reasoned: Yes/No

whether reportable: Yes/No