

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

CWP No.14801 of 2018
Date of decision: 24.08.2022

Lal Singh and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. M.L. Sharma, Advocate,
for the petitioners.

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

Mr. Lokesh Sinhal, Advocate,
for respondent Nos.3, 4 and 7-HUDA.

Ritu Bahri, J. (oral)

Petitioners are seeking quashing of the notifications dated 11.02.2010 and 19.02.2010 (Annexures P-6 and P-7) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short '1894 Act') along with award dated 14.06.2010 (Annexure P-9) and eviction notices dated 11.05.2018 (Annexures P-34 to P-36 respectively).

The petitioners are challenging the aforesaid notifications, award and eviction notices on the ground that as per order dated 04.09.2013 passed by this Court in **Rohtas and others vs. State of Haryana and others**, CWP-21572-2011 and connected petitions (Annexure P-14), alternative sites have not been allotted to the petitioners, before getting the houses vacated pursuant to acquisition proceedings. As per judgment passed in

physical possession to the landowners, whose land had been acquired. A further direction was given to grant some reasonable period for construction of their houses before vacating the acquired houses.

In the present case, while issuing notice of motion on 01.06.2018, status quo with regard to demolition of houses was ordered to be maintained.

Upon notice, short reply dated 16.01.2019 on behalf of respondent Nos.2 and 5 was filed, wherein it was stated that the land in question has been acquired for public purpose, namely for development and utilization of land for sector roads of Sectors 81 to 95 at Gurugram under the Haryana Urban Development Authority Act, 1977 by HUDA. The land of the petitioners has been acquired vide the aforesaid notifications and award was announced on 14.06.2010 (Annexure P-9). It is further stated that alternative sites/plots to the petitioners were to be given by respondent No.7-Estate Officer, HUDA, Gurugram. Allotment letters have already been issued to the petitioners by the Estate Officer-I, HSVP, Haryana, vide letter dated 20.10.2016 (annexures P-25 to P-27). Along with the reply, respondents have placed on record sectoral plans dated 22.03.2012 (Annexures R-1 and R-2), approved by the Department of Town and Country Planning, to show that petitioners' land falls within the sector dividing roads of Sectors 90 and 93, Gurugram. Major portion of the land of the petitioners affects the 60 meters wide sector dividing road and 12 meters wide service road of Sectors 90 and 93, Gurugram, therefore, it cannot be considered for release. It is further stated that request made by the petitioners for realignment of the sector dividing roads cannot be accepted.

Reference has been made to the judgment passed by the Delhi High Court in

WP (C) No.17855 of 2005, titled as **Delhi Villagers Development vs. Govt. Of India**, (decided on 04.01.2008), wherein challenge was to the alignment of 100 meter wide road connecting NH-8 to NH-1, passing through NH-10, as an Urban Extension Road-II. The said petition was dismissed by observing that it was essential part of planning of a project, which must be left to the executives to decide.

In the reply filed, further reference has been made to a judgment passed by Hon'ble the Supreme Court in **Jagdish Chand vs. State of Haryana and others**, (2005) 10 SCC 182, wherein it has been held that direction to exempt structure from acquisition would not come in the way of authorities, if required for the purpose of road and hospital and other civic amenities. Further, in **Geeta and others vs. State of Haryana and others**, 2015 (2) HLR 376, this Court has held that the Government can acquire the land, over which, the petitioners have raised 'A' class construction, for constructing road for the project.

It is further submitted that the petitioners have not filed any objection against the Draft Development Plan of Gurugram Manesar Urban Complex-2021 AD, 2025 AD and 2031 AD, published vide notifications dated 11.07.2006, 04.10.2010 and 04.09.2012 respectively as per requirement of Section 5 (5) of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. Hence, they cannot raise any objection to the acquisition of the land in dispute at this belated stage. A proper survey has been conducted before issuing the impugned notifications and efforts were made to avoid the thickly constructed areas. Further reference has been made to a judgment passed by this Court in **Jaswant and others vs. State of Haryana and others**, CWP-

27671 and 27861 of 2013 (decided on 29.09.2015), wherein it has been observed that whenever there is acquisition, it is bound to cause hardship to the persons whose land is subject matter of such acquisition. However, the decision to lay roads at one place or the other, the circumstances of saving large number of constructions or few is relevant consideration. The individual interest has to give way to the public interest.

A separate written statement has been filed on behalf of respondent Nos.3, 4 and 7, wherein details of the land of each petitioners have been given, which are reproduced as under:-

1	Sh. Lal Singh son of Sh. Phool Singh	470 Sq. yards
2	Sh. Jeet Singh son of Sh. Phool Singh	406 Sq. yards
3	Sh. Samay Singh son of Sh. Phool Singh	439 Sq. yards.

It is stated that earlier, the petitioners had filed CWP-21858-2011, which was disposed of vide judgment dated 04.09.2013 and a direction was given to the respondent authority to decide the claim as per policies dated 26.10.2007/24.01.2011 and 09.11.2010. In compliance with the aforesaid order, allotment of alternative plots have been issued to the petitioners, details of which, are given as under:-

Petitioner Nos.	Name	Plot No.	Sector	Size
1	Lal Singh	985	37-C	1 Kanal
2	Samay Singh	987	37-C	1 Kanal
3	Jeet Singh	521	37-C	1 Kanal

Copies of allotment letters have been annexed as Annexures P-26, P-27 and P-28. As per terms and conditions of the allotment letters, the petitioners were required to accept the allotment within 30 days from the date of issuance and they were to sent their acceptance by registered post

along with amount of Rs.32,40,000/- i.e. 25% of the total tentative price. However, neither the petitioners communicate their acceptance nor deposited the 25% amount of the tentative price within the prescribed time. Thus, the allotment stood cancelled automatically. This was also shown on the PPM data base. It is further clarified that as per report dated 08.03.2019 of the survey branch, the possession of the plots can be given to the allottees, but as the plots stand cancelled, possession cannot be offered. It is further submitted that plot Nos. 521, 985 and 987, Sector 37-C have not been allotted yet. The JSIC (Joint State Inspection Committee) after conducting a survey on 16.08.2018, has not recommended release of acquired existing structures due to the following reasons:-

- “(i) 23910 mtrs land is coming under sector dividing road along with service road as per approved tentative sectoral plan.
- (ii) Entire road portion has been constructed at site except in the portion of the claimed land, hence no realignment is possible.
- (iii) Construction has been raised within the portion which is required for road.
- (iv) As per the directions of Hon'ble High Court vide order dated 23.02.2018, which was in the light of the directions contained in the Hon'ble High Court order dated 04.09.2013, the claim of the 22 numbers of petitioners under 22 CWPs in terms of policy dated 26.10.2007/24.01.11 and 09.11.2011 stands disposed by passing speaking order vide EO-I, HSVP, Gurugram office memo No.2479 dated 25.04.2018.”

The decision of the JSIC was forwarded to the Department of Urban Estate, Haryana. The Government of Haryana has rejected the prayer for release of land of the petitioners. In this regard, the petitioners were intimated by passing a speaking order dated 13.06.2019 (Annexure R-II).

Heard, learned counsel for the parties.

When the matter was taken up on 27.05.2022, learned counsel

for the State had placed on record report of the JSIC dated 16.08.2018 along with photographs of the site, which were taken on record as Annexures R-1 and R-2. A perusal of this report shows that case of Lal Singh and others (figures at serial No.10) has not been recommended for release as the entire road has been constructed at site, except the portion of the claimed land, hence, no realignment is possible. The construction has been raised within the portion, which is required for road. The JSIC has considered the claim of 22 petitioners and gave the same opinion.

The petitioners, in the present case, have not filed any replication stating that in lieu of their acquired land, plots were allotted to them vide allotment letters dated 20.10.2016. However, they neither gave their consent for accepting the same nor deposited 25% of the total tentative price. As per photographs (Annexure R-2), which have been placed on record by learned State counsel, the constructed portion of the house comes in 84 meter wide road.

Facts not in dispute between the parties are that in lieu of the acquired land, alternative plots were allotted to the petitioners vide allotment letters dated 20.10.2016 (Annexures R-3, R-4 and R-5), which they did not accept. Consequently, the aspect of realignment has been considered by the JSIC vide its report dated 16.08.2018 and their case for release of land has been rejected keeping in view that realignment is not possible.

In the reply filed by respondent Nos. 3, 4 and 7, it is stated that the plots allotted to the petitioners have been cancelled. However, plot Nos. 521, 985 and 987, Sector 37-C are yet to be allotted. These three plots are still available for allotment. The respondents can consider and allot these

plots to the petitioners keeping in view the fact that realignment of the road is not possible. Moreover, interest of the general public, for which the land is being acquired, is more important.

In view of the above discussion, as far as challenge to the acquisition is concerned, the present petition is dismissed. However, the respondents are directed to consider the case of petitioners for allotment of plot Nos. 521, 985 and 987, Sector 37-C in their favour. It is further directed that after allotment of alternative plots along with physical possession, the petitioners shall be granted some reasonable period, to be determined by the authorities, for the construction of their houses, before vacating the acquired houses.

Disposed of in the above terms.

(RITU BAHRI)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

24.08.2022
ajp

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