

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-26144-2014 (O&M)

Date of decision: 27.10.2022

Darshan Singh and another

....Petitioners

Vs.

State of Haryana and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: None for the petitioners.

Mr. Ankur Mittal, Addl.A.G., Haryana with
Mr. Saurabh Mago, A.A.G., Haryana.

Ritu Bahri, J.

The petitioners are seeking issuance of a writ in the nature of certiorari for quashing the impugned notification No. LAC(H)-2010/NTLA/484 under Section 4 dated 21.05.2010 (Annexure P-9) and notification No. LAC(H)-2011/BTLA/518 under Section 6 dated 20.05.2011 (Annexure P-12) issued by the respondents and setting aside/modifying the order dated 27.05.2014 (Annexure P-16) whereby their claim has been allowed partly in view of the judgment passed in CWP No. 7668 of 2012, as petitioners' whole property comprising of house which has come under the proposed road deserves to be released as the new proposed road has been now re-aligned as per the new layout plan.

The petitioners had earlier approached this Court by way of filing CWP-22294-2013 which was disposed of on 08.10.2013 with a direction to the Land Acquisition Collector, Urban Estate Department, Hisar to conduct a fresh survey of the petitioners' land and if there exists a

residential house constructed before issuance of Section 4 notification, release the same in the light of policy of State of Haryana. In compliance of the said direction, the Secretary-cum-Director General, Urban Estates Department, Haryana had examined the case of the petitioners and vide order dated 27.05.2014 (Annexure P-16), additional 200 sq. yards of land in favour of the petitioners was released by observing that the part of the site measuring 741 sq. yards which included the construction portion of 150 sq. yards was falling in the proposed development plan road and the balance site area measuring 953 sq.yards which included 350 sq. yards constructed portion was falling outside the development plan road and as per the policy, a proportionate open space of the constructed area is required to be left out. An additional land area measuring 200 sq. yards is released making the total released area as 700 sq. yards as 500 sq. yards of land has already been left out at the time of Section 5A. The balance 253 sq. yards of land is acquired alongwith the 741 sq. yards of land (total 994 sq. yards) falling in the development plan road and the HUDA is to take possession of the land.

The above said order i.e. 27.05.2014 (Annexure P-16) has now been challenged by the petitioners by way of the present writ petition.

On notice of this petition, written statement on behalf of respondents No. 1 to 3 dated 04.07.2016 has been filed by the Zonal Administrator-cum-Additional Director, Urban Estate, Hisar whereby the respondents had admitted that 500 sq. yards of land was already left out under Section 5A of the Act and thereafter additional 200 sq. yards was released by the Government vide order dated 27.05.2014 (Annexure P-16) from acquisition as per the government policy. The balance land of the

petitioners i.e. 994 sq. yards falls in the proposed development plan road and the same cannot be released from acquisition as it was acquired by HUDA. The petitioners have no right to get this land released as it is meant for the welfare of the general public. A copy of the rapat dated 15.05.2013 has been placed on record as Annexure R-1 to show that the possession of the land acquired was taken and handed over to the Estate Officer, HUDA, Sirsa and compensation was already disbursed. It is further stated in para No. 2-3 of the reply on merits that the land of the petitioners was not falling in the Sardar Patel Nagar colony as their land is 500 meter away from the said colony. It is further stated in the written statement that in compliance of order passed in CWP-7668-2012 titled as Kashmiri Lal vs. State of Haryana, the alignment of the proposed sector road has been re-aligned and now the constructed portion (500+200 =700 sq. yards) of the petitioners has already been released and the remaining constructed/vacant area of the petitioners is falling in the site of proposed clinic of the sector. Copy of the proposed layout plan showing the acquired area and released area has been placed on record as Annexure R-3. In this plan, the land of the petitioners is shown in red boundaries which is shown as clinic site in the plan.

No replication to the written statement was filed by the petitioners.

In the present case, when notice of motion was issued on 16.01.2015, status quo was to be maintained by all the parties with regard to possession and this petition was to be listed alongwith CWP-24887-2014. CWP-24887-2014 was disposed of on 26.04.2016 by giving direction to the the State of Haryana to decide legal notice dated 01.08.2014 in accordance with law by passing a speaking order and after affording an opportunity of

hearing to the petitioners within a period of three months and until the legal notice is decided by the State of Haryana, status quo shall be maintained by the parties.

In the present case, the petitioners' case for release of land has already been considered while passing order dated 27.05.2014 (Annexure P-16) and additional 200 sq. yards of land has been released, making the total released area as 700 sq. yards as 500 sq. yards of land has already been left out at the time of Section 5A. The remaining constructed/vacant area of the petitioners i.e. 994 sq. yards has to be utilized for the proposed clinic of the sector. As per rapat dated 15.05.2013 (Annexure R-1), the possession of the land acquired was taken and handed over to the Estate Officer, HUDA, Sirsa and compensation was already disbursed. Further, as per the proposed layout plan (Annexure R-3), the land of the petitioners is to be utilized for the construction of clinic.

At this stage, reference can be made to a judgment passed by Hon'ble Supreme Court in ***Indore Development Authority Vs. Manoharlal & Others, 2020(8) SCC 129*** wherein it is held that once the compensation had been deposited, paid to the landowners and possession had been taken, the land will vest in the State free from all encumbrances if one of the conditions of Section 24(2) of the Act, 2013 is not fulfilled.

Keeping in view that the possession has been taken and handed over to the Estate Officer, HUDA, Sirsa vide rapat dated 15.05.2013 (Annexure R-1), compensation disbursed and proposed layout plan (Annexure R-3), no case to give direction to the respondents to release the remaining land of the petitioners is made out.

Writ petition is dismissed.

(RITU BAHRI)
JUDGE

27.10.2022
Divyanshi

(NIDHI GUPTA)
JUDGE

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