

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-20820-2021

Date of decision: 09.05.2022

Gurvinder Singh and others

..... Petitioners

Versus

Union of India and others

..... Respondents

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

PRESENT: Mr. S.S. Grewal and Mr. Amitoj Singh, Advocates
for the petitioners.

Mr. APS Gill, DAG, Punjab.

Mr. R.S. Madaan, Advocate
for respondents No. 4 and 5.

RITU BAHRI, J. (ORAL)

The petitioners are challenging the order dated 22.09.2021 (Annexure P-13) whereby the District Revenue Officer-cum-Competent Authority for Land Acquisition, Sri Mutkstar Sahib, has rejected the objections filed by the petitioners regarding change of ownership, title and nature of petitioners' land, under the National Highway Act, 1956 (for short-'the Act').

The brief facts of the case are that a notification under Section 3A of the Act was issued on 23.02.2021 (Annexure P-8) and objections were invited against the abovesaid notification under Section 3C of the Act. The petitioners did not file any objections. Thereafter,

notification under Section 3D of the Act was issued on 19.06.2021 (Annexure P-9). Pursuant to this notification, the petitioners filed their objections dated 14.07.2021 (Annexure P-10). Their objections were dismissed vide impugned order Annexure P-13 by observing that respondent No. 3 has no jurisdiction to entertain and decide any objections which were filed, after the issuance of notification under Section 3D of the Act.

In the present case, Mr. R.S. Madaan, Advocate has accepted notice on behalf of respondents No. 4 and 5-NHAI on 14.10.2021 and he has taken the objection that once notification under Section 3D has been issued, the Competent Authority [i.e. Competent Authority for Land Acquisition (CALA), Sri Muktsar Sahib], has no jurisdiction to decide the objections which could have been filed under Section 3C of the Act, after the issuance of notification under Section 3A of the Act. In para 10 of the reply dated 04.02.2022 filed on behalf of respondent No. 3, it has been stated that a notification under Section 3D of the Act was published in the newspaper on 18.06.2021 and as per the record of jamabandi for the year 2014-15, the names of the petitioners were not shown and mutations were sanctioned in the name of Tek Singh S/o Dalip Singh, grandfather of the petitioners, in the column of ownership in Khewat No. 1538 and Khatauni No. 646.

Learned counsel for respondents No. 4 and 5 further states that no commercial activity has taken place in this land till date and they were not a party to the proceedings when the objections filed by the petitioners were rejected vide the order impugned herein. However, it

has not been disputed by the learned counsel for NHAI that no Award qua the land of the petitioners has been passed. With respect to the Change of Land Use (CLU), the appropriate stage to raise the objections was after the issuance of notification under Section 3A of the Act. Since, the petitioners have not filed any such objections, therefore, their objections filed after the issuance of notification under Section 3D of the Act, have rightly been dismissed vide impugned order dated 22.09.2021 (Annexure P-13) by the Appropriate Authority. As per Manual of Guidelines of acquisition under the Act, a reference can be made to guideline 3.5.3 sub-clause (x), which reads as under:-

“3.5.3 Nature/Category of Land:

(i) to (ix) xxx xxx xxx

(x) Further, it has to be noted that the preliminary notification for land acquisition is always prepared on the basis of entries in revenue records. It is also a common knowledge that revenue records may not be updated at all times. It is for this reason that a landowner gets an opportunity under Section 3C of the NH Act to file his objections, including qua the nature of land shown in the preliminary notification under Section 3A. Upon production of satisfactory evidence through such objection, the CALA is competent to allow such change to be reflected in the Notification under Section 3D. Once the stage of Section 3D has been crossed, the CALA would not have the liberty to

*allow such change in the nature/category of land,
unless so directed by a Court of Law.”*

Keeping in view the above said provision, the impugned order dated 22.09.2021 (Annexure P-13) is hereby set aside and a direction is being given to the Appropriate Authority, which had passed the impugned order Annexure P-13, to give an opportunity of hearing to the petitioners as well as respondents No. 4 and 5 with respect to the objections filed by the petitioners and take a final decision within three months from today.

**(RITU BAHRI)
JUDGE**

May 09, 2022
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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No