

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.

CWP-2578-1993 (O&M)  
Reserved on: 7.03.2024  
Pronounced on: 12.03.2024

JACKSON ENGINEERS LIMITED

.....Petitioner

Versus

STATE OF HARYANA AND ORS.

....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MRS. JUSTICE RITU TAGORE

Argued by: Mr. Shiv Kumar, Advocate  
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with  
Mr. Saurabh Mago, DAG, Haryana.

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SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner prays for quashing of notification issued on 28.06.1991, under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”); besides for quashing of notification issued on 06.05.1992, under Section 6 of the Act of 1894, and, for quashing of notification issued on 4.3.1993, under Section 9 of the Act of 1894.
2. The brief facts of the case are that the present petitioner had purchased land measuring 7 kanals 6 marlas, comprised in Khasra No.20/1 and 21/1 of Rectangle No.61, situated in the revenue estate of village Jhar Santali, Tehsil Ballabgarh, District Faridabad, vide registered sale deed dated 1.7.1985, for the construction of a factory building. The ownership of the aforesaid land

the year 1986-87. Shri Ashok Kumar who is stated to have been a lessee on the aforesaid land, surrendered the possession of the land to the petitioner company.

3. That respondent No.1 issued notification, dated 10.06.1998 under Section 4 of the Act of 1894, whereby the land measuring 352.84 acres of land situated in the revenue estate of Jharsantli, Hadbast No.44 was sought to be acquired for the development of Industrial Sector 59, Faridabad.

4. That the petitioner company filed objections under Section 5-A of the Act of 1894, and sought exclusion of the land purchased by the petitioner company for the construction of a factory. Respondent No.1, issued notification on 7.6.1989, under Section 6 of the Act of 1894, whereby the State Government decided to acquire only 606.32 acres of land of the revenue estate of Jharsantali and thereby excluded 36.22 acres of land. The land purchased by the petitioner company was also excluded from acquisition.

5. That after the exclusion of the land purchased by the petitioner company, the petitioner constructed a boundary wall, all around the land and also constructed a factory shed comprised in an area of 50'x35' besides also installed a tube well. The entire construction of the building entailed an expenditure of about Rs.5 lacs. A power connection of 20 KVA was also sanctioned by the Haryana State Electricity Board to the petitioner company.

6. Moreover, it is also contended by the learned counsel for the petitioner that since the acquisition is for the establishment of industrial area, and, when the petitioner company has also established an industry on the disputed lands. As such, it is claimed that the petitioner factory be exempted or be released from acquisition. The foundation of the petitioner company's claim

is rested, upon the objections which it raised under Section 5-A of the Act of

1894. In the said objections the petitioner company mentioned, that its acquired estate had been earlier released from acquisition, and, subsequently the petitioner company had constructed a factory building on the disputed land. Thereafter, the relevant manufacturing process has commenced in the said factory. Resultantly, it was prayed that the petitioner company's industrial unit be released or exempted from acquisition.

7. The initial ground as raised in the instant writ petition, for making a challenge to the acquisition proceedings, and, as becomes premised on the ground, that since the earlier acquisition became withdrawn, and, thereafter yet the Acquiring Authority rather issuing a fresh acquisition notification, and, as such the extantly issued acquisition notification, being a sequel of colourable exercise, but is a mis-founded submission.

8. The reason for rejecting the said submission is founded on the factum, that paragraph 12 of the reply on affidavit makes candid echoings, that the petitioner company's acquired estate was left out from acquisition through a mistake of fact becoming committed by the Joint Inspection Committee concerned, and, that as soon as the said mistake came to the knowledge of the department, thus a subsequent notification under Section 4 of the Act of 1894 became issued, reiteratedly as the land in question was earlier left out from acquisition proceedings owing to mistake in the khasra numbers of one I.M.A. Spring Private Limited Factory, and, the subsequent notification issued, on 28.1.1991 under Section 4 of the Act of 1894, was correct and legal.

9. Since therebys there was an objective application of mind by the Acquiring Authorities, to the necessity of the petitioner company's estate becoming acquired, besides when the apposite earlier mistake of fact, became

rectified through the issuance of a fresh notification on 28.1.1991 under Section 4 of the Act of 1894.

10. Consequently, since it is also clearly spelt out in the reply furnished on affidavit to the petition, that the petition lands are an integral component of the developmental plan. Resultantly, since the layout plans are drawn by the specialist Engineering Cell of the Acquiring Authority, thereby the expertise of the said Engineering Cell, is not required to be tinkered with by this Court, as therebys there would be an ill made tinkering with the relevant public purpose rather for whose furtherance the layout plan became drawn by the specialised Engineering Cell of the Acquiring Authority.

11. Learned counsel for the petitioner has argued, that since in terms of the relevant policies rather releases of acquired constructions were made vis-a-vis similarly situated land-losers concerned, yet the present petitioner rather not been treated at par vis-a-vis other purportedly similarly situated land-losers concerned. Consequently, he argues that the respondent concerned has, in rejecting the petitioner company's objections raised under Section 5-A of the Act of 1894, thus practiced discrimination *qua* it.

12. Even the above argument is found to be lacking in any merit, as it is evidently surfaces from a reading of paragraph 13 of the reply, that at the time of issuance of a notification under Section 4 of the Act of 1894, thus over the acquired lands, rather no large scale constructions, existing thereovers besides with the petitioner in para 3 of the objections raised under Section 5-A of the Act of 1894, making an averment that at the time of issuance of the notification, there was only a pucca boundary walls with barbed wire, rather existing on the acquired lands, and enclosing therein a factory shed measuring

50’x35’ and a room measuring 10’x12’. Resultantly, when excepting the above minimal constructions which but cannot be stated to be rather existences of a full fledged industry over the acquired lands. Therefore, it appears that a full fledged industry was not existing over the acquired lands, at the time of the issuance of a notification under Section 4 of the Act of 1894, but only the above minimal constructions were existing thereons. Consequently, it appears that a large portion of the acquired land(s), was vacant, and, as such, the petitioner was not entitled to claim parity with those land-losers, who had raised complete constructions over the acquired lands, at the time of issuance of a notification under Section 4 of the Act of 1894, and, *qua* whom releases were made.

13. In aftermath, the petitioner company may have been entitled to receive compensation in respect of the above minimal construction, as existed over the acquired lands, but was not entitled to seek the relevant releases or exemptions. However, the claim for determination of compensation in respect of the said minimal constructions may yet if permissible under law, be canvassed by the petitioner through its availing the relevant remedies.

14. Disposed of accordingly.

15. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)  
JUDGE

(RITU TAGORE)  
JUDGE

12.03.2024  
Ithlesh

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