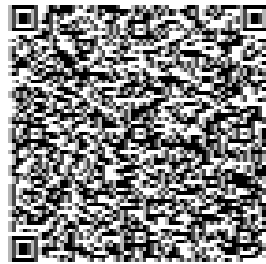


2024:PHHC:088876-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(106)

CWP-6240-2020 (O&M)

Decided on: 17.07.2024

Sita Ram Gulati & others

.....Petitioner (s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Rakesh Nagpal, Advocate for the petitioner (s).

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Magu, DAG, Haryana.

Mr. Arvind Seth, Advocate, for respondent No.4-HSVP.

G.S. Sandhawalia, J. (Oral) :

CM-7736-CWP-2024

1. Application for placing on record replication to the written statement filed by respondents No.2 to 4, is allowed. Same is taken on record. Office to append the same at appropriate place.

2. CM stands disposed of.

CWP-6240-2020

3. Prayer in the present writ petition, filed under Article 226/227 of the Constitution of India is for quashing the letter dated 12.09.2018 (Annexure P-11) whereby the respondent-State have intimated the cost of

the land and the passage road @ Rs.4000/- per sq.meter for the year 2016-2017 plus the cost of construction which was to be estimated by the Engineering Wing, HSVP, which was to be released to the Teacher's Colony falling in Sector 21, Kaithal. A similar challenge has also been raised to the subsequent communication dated 08.01.2020 (Annexure P-14) whereby the cost of the land has been enhanced to Rs.28,500/- per sq.meter as per the policy dated 08.03.2019 (Annexure P-15).

4. The case of the petitioners is that they had raised challenge to the notification dated 05.03.1990 issued under Section 4 of the Land Acquisition Act, 1894 and the subsequent proceedings on the ground that the petitioners along with plot-holders had already formed an association as 'Teacher's Colony'. Resultantly, they were successful to the extent that 26 kanals 16 marlas of land situated at Patti Kaishth was directed to be released by various orders passed by this Court, by the Learned Single Judge and thereafter, by the Co-ordinate Benches. It is not disputed that the State had unsuccessfully challenged the said orders and we are informed that SLP No.2010/CC-7090/2010 titled *State of Haryana & others Vs. Sita Ram Gulati (Roshan Lal) etc.* stands dismissed on 10.05.2010. The writ petitioners apparently have deposited Rs.35 lakhs as development charges as demanded by the respondents and as per the site-plan (Annexure P-7), possession is depicted. Similar site-plan has also been placed on record by the State as Annexure R-1 showing the location of the released land and the revenue *rasta* which bifurcates the three portions of the land which has been released, which is sought to be developed by the petitioners.

5. Apparently, the petitioners have filed an application for providing passage to the released land and requested for grant of exemption for obtaining the licence for setting up of residential plotted colony over the area measuring 3999 sq.meters, which would be clear from communication dated 10.03.2017 (Annexure P-8). The said exemption from grant of licence was duly given on 21.11.2017 (Annexure P-9) subject to certain conditions. In the first letter dated 12.09.2018 (Annexure P-11), the cost of land was Rs.4000/- per sq.meter apart from the cost of construction. It was apparently in pursuance of an earlier policy dated 17.07.2018 which now stands superseded vide policy dated 08.03.2019 (Annexure P-15).

6. Legal notice dated 12.09.2018 was served by the petitioners whereby they sought for the release of the land including the passage, leading to the demand for the additional amount @ Rs.29,500/- per sq.meter in view of the said policy. The relevant part of the policy whereby the request for *rasta* and release of unacquired pocket to the extent of 2 karams (11 feet) has been elaborated, reads as under:

“iii) In those cases where existing revenue *rasta* has been acquired by HSVP and no approach is available to the owner of released/ unacquired land, in such cases HSVP shall provide *rasta with width upto maximum of 2 karam (11 ft) free of cost to such land owners.*

iv) If the owner of such released/ unacquired pocket requests for *Rasta* in excess of 2 karam (11 feet) width, then the same can be permitted in the following manner:-

- a) Applicant shall be required to pay for the differential land (required for *rasta* in excess of 2-karam width) at 1.5 times the nodal residential plotted rate of the concerned sector, in which the said *rasta* falls, or of the adjoining sector, in case nodal rate of the concerned sector is not yet fixed.

However, ownership of the land under rasta shall remain with HSVP and the rasta shall be a public rasta.

- b) In addition any cost of construction of Rasta as determined by the HSVP Engineering Wing shall be chargeable extra.
- c) Such a permission for rasta can be granted to the lessee also, in case the lessee has a lease deed of minimum 30 years in his/ her favour and submits an undertaking/ NOC from the land owner for the rasta.”

7. It is thus the stand of the State that the demand which has been raised in excess of 2 karams is to be given at the rate of 1.5 times the nodal residential plotted rate of the concerned sector. It has been averred that they have already been given the *rasta* of 2 karams and the petitioners are demanding additional *rasta*. As per the terms and conditions of the policy dated 08.03.2019, it is pointed out that same is in excess of 2 karams and the same would only be permissible if they pay for the same at the rate prescribed by the terms of the policy. It is thus apparent that the respondents have provided the 2 karams *rasta* to the land which has been released which would be clear from the revised layout plan (Annexure R-1) which is attached which is in consonance to a large extent to the site plan (Annexure P-7) of the petitioners. We have also perused the site-plan which would go on to show that the front portion of the land which has been released also falls on the 12 meters wide road whereas the other two portions at the back are bifurcated by a 2 karam *rasta* which the respondents have given free of cost.

8. The demand, in case the petitioners want to widen the said *rasta* is being asked for at the rates which are as per the policy. In such circumstances, we do not find any plausible reason to quash the said demand. It is apparent that earlier as per the prevalent policy the amount

rate for the colony. Over the period of time which has elapsed, there has been rise in land prices and since the petitioners themselves have chosen not to take the offer which had already been given, the subsequent demand has been raised. Thus, we do not find any illegality or irregularity in the policy in the absence of any challenge raised to the same.

9. Resultantly, in view of the above discussion, finding no merit in the present writ petition, the same is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

17.07.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No