

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP-23369-2017
Reserved on: 10.09.2024
Date of decision: 16.10.2024

PEACOCK ENVIRONMENT AND
WILDLIFE PROTECTION SOCIETY

..Petitioner

Versus

STATE OF U.T. CHANDIGARH AND OTHERS

..Respondents

2. CWP-14168-1999

BABA CHARANJIT KAUR

..Petitioner

Versus

UNION TERRITORY CHANDIGARH

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.S. Khurana, Advocate
for the petitioner (in CWP-23369-2017).

Mr. Ranjan Lakhanpal, Advocate
for the petitioner (in CWP-14168-1999).

Mr. Jaivir Chandail, Addl. Standing Counsel
Mr. Himanshu Arora, Panel Counsel
for U.T., Chandigarh.

ANIL KSHETARPAL, J.

1. With the consent of learned counsel for the parties, two
connected civil writ petitions are being disposed of by a common order.



2. In CWP-14168-1999, which was filed in October, 1999, Baba Charanjit Kaur prays for issuance of a writ of certiorari to quash notifications issued on 08.07.1988 and 04.07.1989, respectively under Section 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act') with direction to the respondent to release a religious structure namely '*Gurudwara Sanjha Sahib*' from acquisition. It is evident that the acquisition of land for public purpose was complete on announcement of award under Section 11A by the Land Acquisition Collector on 27.03.1991. An application for release of land under Section 48 was for the first time filed on 15.09.1999 (Annexure P-8). The acquisition has been challenged on the following three grounds:-

- i. Personal notices under Section 4, 6 and 9 of the 1894 Act, were not served.
- ii. The premises is being used for religious purpose.
- iii. Certain parcels of plots of various other institutions have been released.

3. Having heard learned counsel for the parties, this Court is of the considered view that the writ petition lacks merit on the following grounds:-

- i. The writ petition has been filed in the year 1999 while in 1991, the land had already vested in the Union Territory as the award under Section 11A was announced on 27.03.1991 by the Land Acquisition Collector.
- ii. Admittedly, the petitioner did not file any objections to the proposed acquisition within a period of 30 days as provided under Section 5-A of the 1894 Act.
- iii. The Gurudwara was constructed after purchasing the property in December, 1986. It is alleged that the

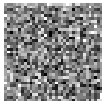


Gurudwara was constructed before issuance of notification under Section 4 of the 1894 Act, however, as per the stand of the respondent, the petitioner's plot falls within the road alignment of V-3 road and application filed by the petitioner has been considered and rejected by the Administration.

iv. There is no provision for service of personal notice with respect to notification under Sections 4 and 6 of the 1894 Act. As per the provisions of the Act, the notifications shall be published in the newspaper as well as Official Gazette. It is not the case of the petitioner that the notice was not published in the newspapers or the Official Gazette. As per the U.T. Administration's stand, the entry in the revenue record in favour of Gurudwara was made for the first time in the year 1991, which is disputed by the petitioner. Hence, disputed questions of fact are involved. In any case, failure to serve notice under Section 9 of the 1894 Act would not vitiate the acquisition particularly when the land has already vested with the Union Territory, Chandigarh.

v. The petitioner has failed to prove any hostile discrimination as the petitioner's property falls in the alignment of V-3 road, whereas, the other parcels of land could be adjusted in the planned development of the area.

4. In the end, learned counsel for the petitioner submitted that direction be issued to U.T. Administration to release the compensation along



with interest.

5. It may be noted that there is no prayer in the writ petition with respect to compensation. The 1894 Act lays down the procedure for claiming compensation for acquisition of the land which may be availed by the petitioner.

6. In CWP-23369-2017, the prayer is to issue a writ in the nature of mandamus to construct and complete remaining rotary (roundabout) situated between Sector 50-D/63 and 51-C, Chandigarh and between Sector 62-B and Sector 63-A, S.A.S. Nagar, Mohali, near Model Jail, Burail. Thus, it is evident that on account of interim order, the construction of rotary is held up. Hence, there is no hesitation in directing the respondents to forthwith remove the religious structure and complete the construction of rotary in public interest.

7. With these observations, Civil Writ Petition No.14168 of 1999 is dismissed, whereas, Civil Writ Petition No.23369 of 2017, is disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

October 16th, 2024
Ay

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No