

(2011) 03 P&H CK 0157

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 5231 of 1990 (O and M)

Sahdev Singh and Others

APPELLANT

Vs

The State of Haryana and

RESPONDENT

Another

Date of Decision: March 21, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 4, 5A, 6

Hon'ble Judges: Rakesh Kuamr Garg, J; Jasbir Singh, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Rakesh Kumar Garg, J.

This judgment shall dispose of nine writ petitions bearing Civil Writ Petition Nos. 5231, 5232, 5454, 6244, 6242, 7085, 7018, 6987 and 7368 of 1990, as prayer to quash the proceedings to acquire the land of the Petitioners in all these petitions has been made on similar grounds. For the sake of convenience, facts are being taken from CWP No. 5231 of 1990.

2. Respondent No. 2 issued notification dated March 08, 1989, u/s 4 of the Land Acquisition Act, 1894(in short "the Act") proposing to acquire an area measuring 146.44 acres, situated in Gurgaon Hadbast No. 55, for the development and utilisation of land for residential and commercial area in Sectors 9, 9-A and 10 at Gurgaon. The Petitioners filed objections to the proposed acquisition stating that they had raised construction over the land in dispute and the same be not acquired. Similar objections were filed by other right holders. After requisite enquiry by the Collector, an area measuring 134.57 acres including the vacant lands of the Petitioners was ordered to be acquired and accordingly a declaration u/s 6 of the Act was issued vide notification dated March 07, 1990. Hence this writ petition.

3. The Petitioners are the owners of small plots. It is their grievance that despite policy in existence in that regard, construction raised by the Petitioners has not been exempted from acquisition, whereas, benefit of exemption was granted to many other similarly situated plot holders.

4. During the course of hearing, Mr. Kamal Sehgal, Additional Advocate General, Haryana submitted before this Court that the impugned notifications have been upheld by this Court in titled as "Birinder Singh v. State of Haryana Civil Writ Petition No. 13539 of 1990" decided on June 30, 2010 and therefore the present writ petitions are liable to be dismissed. It has been further submitted that Petitioners have not stated true facts as there was absolutely no construction over the plots of the Petitioners No. 2 to 9 which were lying vacant and the constructed portion of Petitioner No. 1 was not acquired.

5. It is useful to refer to para No. 1 to 5 of preliminary objections of the written statement which read as follows:

1. That the land in dispute was notified u/s 4 of the Land Acquisition Act vide notification dated 8.3.89. Various other land owners whose land was included in the said notification filed civil writ petitions before the Hon'ble High Court. Many of the said civil writ petitions have already been dismissed by the Hon'ble Court. Such dismissed writ petitions include Kaura Ram v. State of Haryana C.W.P No. 6128/90, dismissed on 18.2.91, titled as Smt. Mohan Devi v. State of Haryana C.W.P. No. 6879/90 dismissed on 8.1.91, Pran Sukh v. State of Haryana C.W.P. No. 6076/90 dismissed on 13.2.91 and Daya Kishan Kataria v. State of Haryana C.W.P. No. 7504/90, dismissed on 6.3.91. Therefore, the civil writ petition filed by the Petitioners also merits dismissal. The attested copies of the orders are attached as annexures R-1 to R-4.

2. That no objections u/s 5A of the Land Acquisition Act were filed by Petitioners No. 3, 7 and 8 viz. S/Sh. Mool Chand, Hari Singh and Mange Ram respectively. The said Petitioners, therefore, have got no right to challenge the acquisition proceedings at this stage. The civil writ petition filed by the said Petitioners merits dismissal on this ground also.

3. That the Petitioners have not come to the Hon'ble Court with clean hands at all. In para No. 4 of the the civil writ petition all the Petitioners have claimed construction over the land in dispute. The claim of the Petitioners is totally false and has been made with mala fide intentions. Fact is that there was no construction of Petitioner No. 2 to 9 at all at the time of notification u/s 4 of the Land Acquisition Act. The land was completely vacant. A survey was conducted by the answering Respondent fully in accordance with law. The relevant record shall be produced before the Hon'ble Court as and when the same is ordered by the Hon'ble High Court. The civil writ petitions filed by the said Petitioners is liable to be dismissed on this ground as well.

4. That there was construction only of Petitioner No. 1 Sh. Sahdev Singh at the relevant time. The said construction along with proportionate vacant area was left out of acquisition. In all an area measuring 2 biswas(300 sq.yards approx.) was left out of acquisition. Rest of the land of the said Petitioner which is under acquisition was completely vacant. The civil writ petition filed by the said Petitioner merits dismissal on this ground as well.

5. That in para No. 7 of the civil writ petition the Petitioners have alleged that no hearing whatsoever in respect of the objection filed by the Petitioners u/s 5-A of the Land Acquisition Act was given. The allegations of the Petitioners are totally wrong and have been made with mala fide intentions. Fact is that no objections u/s 5-A of the Land Acquisition Act were filed by Petitioners No. 3,7 and 8 as has already been submitted in detail in preliminary objection No. 2 above. Objections u/s 5A of the Land Acquisition Act were filed only by Petitioners No. 1,2,4 to 6 and 9 viz. Sh. Sahdev Singh, Mahabir Parshad, Ram Kawar, Smt. Sushila Sharma, Sh. Raj Kumar and Sh. Khushi Ram, respectively. All the above said six Petitioners were served fully in accordance with law. However, none of the said Petitioners appeared before the answering Respondent at the time of hearing of objections u/s 5A of the Land Acquisition Act. The objections were decided fully in accordance with law. Therefore, the allegations of the Petitioners that no hearing was afforded is wrong and hence denied. The said Petitioners were given full opportunity of hearing in accordance with law. The civil writ petition filed by the Petitioners merits dismissal on this ground also.

6. We have perused the averments made in these writ petitions. We are satisfied that the present writ petitions are covered by the aforesaid decision of this Court. No fault can be found with the impugned notifications. There is nothing on record to prove the case of the Petitioners. As is apparent from the record, the authorities have already released that portion of the land over which construction was in existence at the time of issuance of notification u/s 4 of the Act. Moreover, the averments made in the written statement as referred above have not been controverted by the Petitioners.

7. Thus,in view of the facts mentioned above, no case is made out for interference.

8. All the petitions being without merit are dismissed.