
(2010) 05 P&H CK 0117

High Court Of Punjab And Haryana At Chandigarh

Case No: None

D.P. Gaur and Another

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: May 29, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226
- Land Acquisition Act, 1894 - Section 17, 18, 4, 6

Hon'ble Judges: M.M. Kumar, J; Jitendra Chauhan, J

Bench: Division Bench

Judgement

M.M. Kumar, J.

This petition filed under Article 226 of the Constitution challenges notification dated 5.2.2007 (P-8), notifying the Final Development Plan 2021 A.D. Gurgaon-Manesar Urban Complex. A further prayer has been made for quashing notifications dated 25.1.2008 and 18.3.2008 issued under Sections 4 and 6 read with Sections 17(1) and 17(4) of the Land Acquisition Act, 1894 (P-29 and P-30). The petitioners have sought a mandamus directing the respondents not to proceed further in accordance with the impugned alignment of the proposed V-2(a) road as given in the Final Drawing and instead to realign the proposed V-2(a) road taking into account the alternative alignment as suggested in the site map Annexure P-19.

2. The respondents filed their replies contesting the claim of the petitioners. However, on 25.5.2010, Mr. Gopal Subramanyam, learned Solicitor General of India appeared and fairly stated that all the industrial units which are functional, shall be shifted to suitable alternative places. Even the State Government offered to make efforts in respect of those units which were not functional provided they were able to show some evidence concerning their potential to function.

3. Mr. Puneet Bali, learned Counsel for the petitioners had accepted the offer but has, however, stated that the modalities have to be worked out with regard to

locating the industrial sites in terms of distance, availability of infrastructure, payment of price and other factors. Accordingly, the matter was adjourned to 27.5.2010 so that the petitioners may appear before the Director, Town and Country Planning, namely, Shri T.C. Gupta, to work out all those modalities.

4. When the matter came up for consideration on 27.5.2010, the modalities were not yet completed although Shri T.C. Gupta has apprised the Court about the minutes of the meeting held on 26.5.2010, under his chairmanship at Planning Department Haryana, Ayojna Bhawan, Sector 18-A, Chandigarh. After further discussion, we found that certain modalities were still required to be creased out between the parties. Accordingly the hearing was deferred to 28.5.2010 and then to 29.5.2010. It appears that after long discussions the following settlements have arrived at between the parties:

i) Compensation as per award;

ii) Minimum Plot size equivalent to the existing plot size of the petitioners in Sector 34/35/37-II, Gurgaon, as offered in the meeting dated 26.5.2010 with variation on either side to the extent of 10%;

iii) Payment at the rate of Rs. 11,900/- per square meter for Sector 37-II, Gurgaon, as offered in the meeting dated 26.5.2010. For the other sectors minimum reserve price as on 28.5.2010, as per the allotment policy, with a further assurance that no hidden charges of any kind such as external development charges or internal development charges or any other kind of charges, except the land acquisition enhancement awarded by the competent Court, would be charged from the petitioners;

iv) Payment to be made in 12 equal half yearly interest free instalments with first instalment being treated as margin money;

v) Physical possession of fully developed plots to be given at the earliest; and

vi) Time period of nine months to be granted for relocation after the handing over of the physical possession of the fully developed plots.

5. The settlement has been duly signed by petitioner No. 1. A copy of the aforesaid terms and conditions has been handed over to Mr. Kamal Sehgal, learned State counsel, who has readily accepted them. A copy of the proposed settlement, which is corrected and initialed by the Court, is taken on record as Mark "A".

6. Mr. Kamal Sehgal, learned State counsel while agreeing to the aforesaid settlement, after obtaining instructions from Shri T.C. Gupta, Director Town and Country Planning, has categorically stated that it is strictly one time exception on account of peculiar facts and circumstances of the case and shall not be treated as precedent for any future case.

7. Mr. Puneet Bali, learned Counsel for the petitioners, however, pointed out that since the industrial unit is likely to face financial problems, it would be appropriate if they are paid enhanced compensation also at the earliest. He has further submitted that the petitioners have already filed reference u/s 18 of the Land Acquisition Act, 1894 (for brevity, "the Act"), claiming enhancement of the compensation awarded by the Collector, which is pending consideration before the Reference Court at Gurgaon.

8. As a sequel to the above discussion, the instant petition is disposed of in terms of the settlement arrived at between the parties. However, this would be one time exception on account of peculiar facts and circumstances of the case and shall not be treated as precedent for any future case. We further direct that if any reference application u/s 18 of the Act has been filed in respect of the notification of acquisition of land involved in this case, the Reference Court shall make all efforts to decide the references at the earliest, preferably within a period of six months from the date of receipt of a copy of this order. The office is directed to send a copy of this order to the learned District Judge, Gurgaon.

9. The writ petition and all miscellaneous applications are disposed of in the above terms.