

**(2010) 05 P&H CK 0118**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** None

Union Rubber Mills

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**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

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**Judgement**

M.M. Kumar, J.

This petition filed under Article 226 of the Constitution challenges quashing notifications dated 25.1.2008 and 18.3.2008, issued under Sections 4 and 6 read with Section 17(1) and (4) of the Land Acquisition Act, 1894 (for brevity, "the Act") [P-17 & P-1 8] acquiring the industrial unit of the petitioner. The petitioner has also questioned the action of the respondent State to change the alignment of the proposed 150 meters wide road under the provisions of Section 5 of the Punjab Scheduled Roads and Controlled Areas (Restriction on Unregulated Development) Act, 1963 (for brevity, "the 1963 Act") being illegal, arbitrary, mala fide, motivated and ultra vires of the provisions of the 1963 Act.

2. The respondents contested the claim of the petitioner by filing written statements. However, on 25.5.20 10, 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. Learned Counsel for the petitioner 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 petitioner 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 settlement has been arrived at between the parties:

(i). Compensation as per award.

(ii). Minimum Plot size equivalent to the existing plot size of the petitioner preferably in Sector 37-II/34/35, as offered in the meeting dated 26th May 2010, subject to variation of 10% maximum on either side.

(iii). Payment at the rate of Rs. 11,900/- per sq. Mtr. for Sector 3 7-II, Gurgaon, as offered in the meeting dated 26th May 2010. For rest of sectors minimum reserved price as of today, i.e., 28th May 2010, as per the allotment policy, with a further assurance that no hidden charges of any kind, such as, external development charges, or any other kind of charges, except the land acquisition enhancement awarded by the competent court after the allotment to the petitioner, will be charged from the petitioner.

(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 plot to be given at the earliest.

(vi). Time period of 9 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 the authorised signatory of the petitioner. 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. Learned Counsel for the petitioner, however, pointed out that since the industrial units are likely to face a number of financial problems, it would be appropriate if they are paid enhanced compensation also at the earliest. He has further submitted that the petitioner has already filed reference u/s 18 of the Act, claiming enhancement of the compensation awarded by the Collector, which are 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.