

**(2001) 05 P&H CK 0195**

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

**Case No:** Amended Civil Writ Petition No. 9141 of 1990

Rakesh Batra

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

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**Date of Decision:** May 16, 2001

**Acts Referred:**

- Land Acquisition Act, 1894 - Section 4, 6

**Citation:** (2001) 4 RCR(Civil) 570

**Hon'ble Judges:** V.K. Jhanji, J

**Bench:** Single Bench

**Advocate:** Kanwaljit Singh, for the Appellant;

**Final Decision:** Dismissed

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**Judgement**

V.K. Jhanji, J.

In this writ petition, challenge is to the issuance of notification u/s 4 of the Land Acquisition Act (for short the Act) dated 16th December, 1988 (Annexure P.3) followed by declaration u/s 6 of the Act, dated 14th December, 1989 (Annexure P5), the main ground on which notification u/s 4 and declaration u/s 6 of the Act are challenged is that the petitioner had made construction on the respective plots and the policy of the Government such plots were construction existed were not to be acquired.

2. State in its written statement has stated that land where construction existed at the time of issuance of notification u/s 4 of the Act was released from acquisition and was no acquired and only vacant land was acquired. It is stated that on the date of issuance of notification u/s 4 of the Act, there did not exist any construction on the land acquired. Petitioner did not file replication to controvert the stand of the State that there did not exist any construction on the date of issuance of notification u/s 4 of the Act and that only the vacant land was acquired meaning thereby that the stand of the State in this regard has gone uncontroverted. Otherwise too, no

material worth the name has been placed on record to show that any construction existed on the land acquired at the time of issuance of notification u/s 4 of the Act. Petitioner cannot derive any benefit from the construction raised after the issuance of the notification. Moreover, no policy/instructions of the Government providing that the land over which construction is in existence would be exempted, has been placed on record. In absence of any policy/instructions of the Government, it cannot be contended that the land on which construction had been raised, is liable to be exempted.

3. Counsel for the petitioner contended that the petitioner had filed representation with the Government of Haryana for releasing the land from acquisition and on the said representation, the Government called for a report of Director, Urban Estate, Haryana, Chandigarh, who in turn sought report from the Land Acquisition Officer Urban Estate, Haryana, Gurgaon, and also from the District Town Planner, Gurgaon. He contended that the District Town Planner, Gurgaon, recommended to the Government that industrial unit of the petitioner should be exempted because there is no justification for acquiring a part of the land belonging to the industrial unit as it will not serve any purpose. In regard to report dated 6th January, 1993, submitted by the Land Acquisition Officer, Haryana, Gurgaon, counsel submitted that the Land Acquisition Officer has also not stated that the land is essential as per lay out plan of Sector 37. On the strength of the report of District Town Planner, Gurgaon, counsel contended that the land of the petitioner deserves to be released from acquisition.

4. From a reading of Annexure P.7 i.e. Memo dated 6th January, 1993 from the Land Acquisition Collector to the Director, Urban Estate, Haryana, I find that on issuance of notification u/s 4 of the Act, petitioner had filed objections, Joint Inspection Committee released land bearing khasra No. 1264/1029, 1067/1034-Min, 1065/1029, 1268/1034 Min, 1266/1029, 1035 Min measuring 8 Bighas 17 Biswas, and rest of the area bearing Khasra No. 1267/1029, 1035-Min, 1037, 1038, 1261/1034 Min, 1268/1034 Min measuring 11 Bighas 13 Biswas was included in the declaration u/s 6 of the Act. It means that the land which was under construction was released and only vacant land was acquired. Representations made by the petitioners for release of land were considered by the Government and rejected firstly on 30th May, 1992 and then on 9th June, 1993. At this stage, it also deserves to be noticed that some of the land owners taking a stand that the land on which constructions were made is to be exempted, filed various writ petitions and the same were dismissed by this Court. Reference in this regard be made to order dated 18th February, 1991 passed in Civil Writ Petition No. 8070 of 1990; dated 23rd July, 1991 passed in Civil Writ Petition No. 2730 of 1991; dated 2nd August, 1991 passed in Civil Writ Petition No. 2676 of 1991 and dated 26th August, 1991 passed in Civil Writ Petition No. 12361 of 1990.

5. Learned counsel next contended that land of some of the persons over which construction was in existence has been released from acquisition, but land of me petitioner has not been released. It is contended that the action of the Authorities in

not releasing the land of the petitioner is discriminatory and notification u/s 4 and declaration u/s 6 of the Act deserve to be quashed on this score alone. This contention too deserves to be rejected. Respondents in their written statement have denied that there has been any discrimination in regard to the land of petitioner vis-a-vis the land of other persons. They have submitted that as far as the land of M/s. Rajindra Steel Rolling Mill, Gurgaon, is concerned, the same was released from acquisition as the land of the factories adjoining the land of the said factory had been left out of acquisition. The land of M/s. Hema Engineering Works was also left out of acquisition, keeping in view the project and development of the said factory. Similarly, the land of the petitioner which was under construction was released and only vacant land was acquired. From the stand of the respondents, it is clear that whatever area could be adjusted in the master plan, was adjusted and left out of acquisition proceedings. Besides this, there is no specific allegation levelled by the petitioner against any specific authority which can be accused of any mala fide or discriminatory disposition towards the petitioner. Merely because some areas have been left out of acquisition, cannot be a ground to justify or sustain the charge of discrimination against the petitioner.

6. No other argument having been raised, this writ petition has to be dismissed and is so dismissed but with no order as to costs.