

Rakesh Batra Vs State of Haryana and Another

Court: High Court Of Punjab And Haryana At Chandigarh

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

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 where 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 not 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

khassra 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 the 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.