Devdutt Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 10, 2014

Acts Referred: Constitution of India, 1950 â€" Article 14, 21, 300-A
Haryana Development and Regulation of Urban Areas Act, 1975 â€" Section 2, 2(g), 2(i), 24, 3
Land Acquisition Act, 1894 â€" Section 2(d), 2(g), 4, 4(1), 5-A

Citation: (2014) 4 RCR(Civil) 94

Hon'ble Judges: Surya Kant, J; Surinder Gupta, J

Bench: Division Bench

Advocate: Sandeep Sharma and Jasbir Mor, Advocate for the Appellant; Kamal Sehgal, Addl. A.G., Pranav Chadha for Raman Gaur and Gitish Bhardwaj for Arun Walia, Advocate for the Respondent

Final Decision: Allowed

Judgement

Surya Kant, J.
This order shall dispose of CWP No. 14006, 24033 & 25737 of 2013 as the same set of notifications issued under the

Land Acquisition Act, 1894 are under challenge in these cases broadly on similar grounds. For clarity, the facts of each case are being noticed

separately.

CWP No. 14006 of 2013 The Five petitioners in this case are residents of village Badshapur, Tehsil and District Gurgaon. They seek quashing of

notifications dated 2nd June, 2009 and 2nd June, 2010 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (in short, "the 1894 Act")

in respect of their land measuring to a total of 16K-10M, fully described in para No. 3 of the writ petition which has been acquired for

development and its utilization for ""Residential sector 58 to 63 and Residential commercial Sector 65 to 67 at Gurgaon as shown in the

development plan under the Haryana Urban Development Authority Act, 1977 by the Haryana Urban Development Authority"".

2. The petitioners while seeking the release of their acquired land have also prayed for summoning the record of the lands which have been

released after the issuance of one impugned notifications or the other.

3. Vide Section 4 notification dated 2nd June, 2009 (Annexure P1), approximately 1400 acres of land, of various villages, namely, Badshapur,

Behrampur, Nangli Umarpura, Tigra, Ullahwas, Kadarpur, Ghatta and Medawas, Tehsil Sohna, District Gurgaon, was proposed to be acquired

for the above-mentioned public purpose. However, while issuing the declaration u/s 6, the total area was reduced to about 800 acres only. Finally,

the award dated 29th May, 2012 was passed for less than 87 acres of land only. This acquired land also includes the petitioners" land, briefly

mentioned in para 2 of this order.

CWP No. 24033 of 2013

4. The six petitioners in this case are residents of village Ghata, Tehsil Sohna, District Gurgaon. Their land measuring 25K-18M situated in the

revenue estate of village Ghata, fully detailed in para 3 of the writ petition, has also been acquired vide the impugned notifications. In addition to

reiterating the grounds taken by the writ petitioners in CWP No. 14006 of 2013, the petitioners in specific rely upon the photographs (Annexure

P15) to substantiate their plea that they had constructed their residential houses many years ago and had since been living there with their families.

These houses have not been spared from acquisition notwithstanding the Government policy dated 26th October, 2007 on the subject. The

petitioners further allege discriminatory acquisition of their land and houses as a result of mala fide and colourable exercise of power.

CWP No. 25737 of 2013

5. The two petitioners are sons of Aulakh Ram r/o Village Baharampur, Tehsil Sohna, District Gurgaon. Their land measuring 19K situated in the

revenue estate of Village Ullahwas, Tehsil Sohna, District Gurgaon fully detailed in para 3 of the writ petition has been acquired vide the impugned

notifications. In addition to the grounds taken in the above described two writ petitions, the petitioners in the instant case have questioned the

acquisition of their land on the ground that the same is being used by them for residential purposes as also for rearing the domestic animals, but for

which they are left with no other land. It is alleged that the petitioners would be left with no source of sustenance if their land is taken away. It is

also their case that after issuance of the notification regarding extending the lal dora area (periphery of the village), the subject land falls within the

abadi deh of the village and cannot be acquired.

6. Since the grounds pleaded by the petitioners to attack the subject acquisition are largely similar to those taken in the first case, no separate reply

was sought from the respondents and all the cases were taken up together for final hearing with the consent of counsel for the parties.

7. The issues of paramount importance raised on behalf of the petitioners briefly are:--

(i) where has the land proposed or declared for acquisition gone?

(ii) how the "public purpose" professed in the impugned notifications would be achieved now that only 87 acres of land are in hand as against the

need of 800 acres?

(iii) what is the criteria or the parameters followed by the respondents in releasing the land before and after Section 6 notification? and

(iv) how can the acquisition of their lands for providing amenities and ''public utilities'' to the private builders be termed ''for public purpose'' or ''in

public interest''?

8. The petitioners have made an attempt to answer some of the questions formulated above. They have highlighted that a large track of land was

proposed to be acquired so as to scare them away and put them under the psycho fear of losing their ancestral lands not even for peanuts, the

other seemingly better option was to enter into ''collaboration'' or ''sale agreements'' with the private builders or other affluent persons. No sooner

did such agreements take place that the land proposed or declared for acquisition was released in favour of the builder companies and individuals.

The details of the village-wise land proposed to be acquired u/s 4, declared for the acquisition u/s 6 and the land finally included in the Award

dated 29th May, 2012 are as follows:--

9. The petitioners have, with a view to infuse strength to their allegations, placed on record a report (Annexure P4) which appears to be a part of

the judicial record of CWP No. 12251 of 2010 Bega v. State of Haryana. The report is an eye-opener and unmasks the collateral purpose behind

the impugned acquisition. The aforesaid report unveils as to how at least 94 licences have been given to private builders, mostly in respect of the

land of the desperate landowners who entered into collaboration agreements with the former. The petitioners allege that since they refused to

accept the unilaterally dictated terms of the builders, the small pieces of their respective land have been acquired even though such acquired land

cannot achieve the notified public purpose. Not only this, the sectoral plans are tailor-made depicting as if all the ''public utilities'' are to be set up at

the different patches of the acquired land only.

10. The Secretary, Urban Estates, Town and Country Planning Department has filed written statement (in CWP No. 14006 of 2013) on behalf of

the State. It is admitted in Preliminary Submission No. 2 that vide Section 4 notification an area measuring 1417.07 acres was proposed to be

acquired. Thereafter, a Joint Site Inspection Committee inspected the proposed land and ""recommended the release of the thickly built up area,

before issue of notification u/s 4 and also the area for which licence/letter of intent to grant u/s 3 of the Haryana Development and Regulation of

Urban Areas Act, 1975 were granted and the cases pending consideration by the department of Town & Country Planning for grant of licence for

excluding that area from declaration u/s 6 of the Act of 1894. Accordingly, notification u/s 6 was issued on 29.5.2010 for 850.10 acres"". It is

further averred that a number of writ petitions were filed by the individual landowners and companies for the release of their respective lands as per

the Government policy dated 26th October, 2007 ""as they had submitted applications for grant of licence for development of land under the Act of

1975. Therefore, they were entitled for the release of their land as per policy"".

11. The written statement also reveals that the matter was reconsidered by a High Powered Committee, who after considering all the pros and

cons of the case including various judgments of the High Court and Supreme Court having bearing on the subject acquisition, decided to

recommend to the Government to announce the award of the land only for the land which has been earmarked for the external infrastructural

facilities and notified u/s 6. It is also submitted that it was necessary to acquire this area. HUDA has been mandated to develop these infrastructural

facilities after recovering the cost from the developers in cases where licences/CLUs have been granted to the land owners and also from its own

plot holders, where the area had been developed by HUDA. Accordingly, after seeking approval of the State Govt., the Land Acquisition

Collector was directed by the Urban Estate Department vide letter dated 29.05.2012 (copy enclosed as Annexure-R-2) to announce the award

for an area of about 85.95 acres which was notified u/s 6. The breakup of the area acquired for various infrastructures facilities is given as under:--

12. It is maintained in Preliminary Submission No. 3 that at the time of issuance of Section 4 notification the petitioners" land was totally vacant and

their objections filed u/s 5-A claiming construction of residential houses on the subject-land were duly considered before its inclusion in the final

declaration. Reliance is placed on the report of the Land Acquisition Collector and the latest photograph of the site taken through Google Image to

corroborate that most of the acquired land is still lying vacant. A detailed reference has also been made to the statutory procedure contemplated

under the Act, statedly followed minutely while carrying out the impugned acquisition.

13. The Land Acquisition Collector, Urban Estate, Gurgaon has also filed a separate reply (in CWP No. 14006 of 2013) reiterating that the

mandatory procedure prescribed for acquisition was duly followed and the petitioners" objections were considered in accordance with law as is

evident from the report Annexure R/1. Preliminary objection of delay and laches in approaching the Court is also pressed against the petitioners.

14. On November 6, 2013, the arguments were heard in part whereupon the Deputy Commissioner, Gurgaon was directed to file an affidavit

along with details of the registered sale deeds or agreements to sell in respect of the acquired land, transacted after issuance of Section 4

notification dated 2nd June, 2009. The names of vendees/prospective vendees was also directed to be disclosed.

15. In deference thereto, the Deputy Commissioner, Gurgaon has filed an affidavit dated 9th December, 2013 furnishing the desired information in

respect of village Badshapur only. The list of sale transactions unfolds that 30 sale deeds have been executed on different dates from 19th March,

2010 till 5th August, 2011 pertaining to different parcels of land of village Badshapur only. Every such sale transaction took place after Section 4

notification and 27 of these have been executed after issuance of Section 6 notification. The story in respect of other villages would not be any

different than that of Badshapur.

16. The preeminent question that arises for consideration is whether the impugned acquisition has been carried out for a bona fide public purpose

or is it a case of colourable exercise of power for the private benefit of affluent builders and developers?

17. The facts would speak for themselves. The power of eminent domain was invoked by the State to acquire more than 1400 acres of land for

the purpose of developing several residential and commercial Sectors in Gurgaon. It was expressly recited in the notifications that the land is

needed for the development and its utilization under the Haryana Urban Development Act, 1977 by the State agency HUDA. This is undeniable

that the total land which has been finally acquired is insufficient to develop even one Urban Sector in Gurgaon what to talk of the entire notified

public purpose. It is also an uncontroverted fact that the acquired land (87 acres) is scattered here and there in the revenue estate of different

villages and fall in different urban Sectors. In fact, the respondents themselves say that the acquired land is not meant for any "commercial or

residential sector" rather it is proposed to be utilized for providing public utilities like hospital, power station, fire station and police station etc. to

discharge their obligation under the Haryana Development and Regulation of Urban Areas Act, 1975. These public utilities are intended to be set

up for the benefit of private builders who have meanwhile taken over the empire of the newly proposed urban sectors and have been licenced to

develop these new areas. What is the Object and Policy of the Haryana Development and Regulation of Urban Areas Act, 1975?

18. The Haryana Development and Regulation of Urban Areas Act, 1975 (in short, "the 1975 Act") has been enacted "to regulate the use of land

in order to prevent ill-planned and haphazard urbanization in or around towns in the State of Haryana". The Act lays down a statutory mechanism

to grant licence to set up a ''colony'' comprising plots, flats, or residential, commercial, industrial, cyber city or cyber park or for the construction of

flats in the form of group housing etc. According to Section 2(d) ""colonizer"" means ""an individual, company or association, body of individuals,

whether incorporated or not, owning land for converting it into a colony and to whom a licence has been granted under this Act"". (20) Section

2(g), (hha), (i) & (k) of the 1975 Act defines the following expressions having bearing on the issue(s) under consideration:--

(g) ""External development works"" include water supply, sewerage, drains, necessary provisions of treatment and disposal of sewage, sullage and

storm water, roads, electrical works, solid waste management and disposal, slaughter houses, colleges, hospitals, stadium/sports complex, fire

stations, grid sub-stations etc. and any other work which the Director may specify to be executed in the periphery of or outside colony/area for the

benefit of the colony/area;

xxx xxx xxx

(hha) ""Infrastructure augmentation charges"" includes the cost of the augmentation of major infrastructure projects;

xxx xxx xxx

(i) ""internal development works"" mean

(i) metalling of roads and paving of footpaths;

(ii) turfing and plantation with trees of open spaces;

(iii) street lighting;

(iv) adequate and wholesome water-supply;

(v) sewers and drains both for storm and sullage water and necessary provision for their treatment and disposal; and

(vi) any other work that the Director may think necessary in the interest of proper development of a colony;

xxx xxx xxx

(k) ""Owner"" includes a person in whose favour a lease of land in a urban area for a period of not less than ninety-nine years, has been granted.

19. Section 3(1) of the 1975 Act provides that ""any owner desiring to convert his land into a colony shall, unless exempted u/s 9, make an

application to the Director, for the grant of a licence to develop a colony in the prescribed form and pay for it such fee and conversion charges as

may be prescribed"". Sub-section (2) requires the Director to enquire into the following, among other things, on receipt of the application:--

(a) title to the land;

(b) extent and situation of the land;

(c) capacity to develop a colony;

(d) the layout of a colony;

(e) plan regarding the development works to be executed in a colony; and

(f) conformity of the development schemes of the colony land to those of the neighbouring areas.

20. Sub-Section (3) of Section 3 enables the Director to grant a licence by an order in writing provided that the applicant furnishes the requisite

bank guarantee and he also undertakes:--

(i) xxx xxx xxx xxx

(ii) to pay proportionate development charges if the external development works as defined in Clause (g) of Section 2 are to be carried out by the

Government or any other local authority;

(iii) the responsibility for the maintenance and upkeep of all roads, open spaces, public park and public health services;

(iv) to construct at his own cost, or get constructed by any other institution or individual at its cost, schools, hospitals, community centres and other

community buildings on the lands set apart for this purpose, in a period as may be specified, and failing which the land shall vest with the

Government after such specified period, free of cost, in which case the Government shall be at liberty to transfer such land to any person or

institution including a local authority, for the said purposes, on such terms and conditions, as it may deem fit:

Provided that in case of licenses issued prior to the notification of the Haryana Development and Regulation of Urban Areas (Amendment and

Validation) Act, 2012, the licensee, the purchaser or the person claiming through him shall construct the school, hospital, community centres and

other community buildings on the land set apart for this purpose, within a period of four years, extendable by the Director by another period of two

years, for reasons to be recorded in writing, from the notification of the Haryana Development and Regulation of Urban Area (Amendment and

Validation) Act, 2012:

Provided further xxx xxx xxx

Provided further xxx xxx xxx

(iv-a) to pay proportionate cost of construction of such percentage of sites of such school, hospital, community centre and other community

buildings and at such rates as specified by the Director;"".

21. Section 3A enables establishment of a Fund comprising Infrastructure Development Charges where under every colonizer is required to

deposit the charges determined as per the prescribed criteria. Its Sub-section (4) pertinently says that ""the colonizer shall in turn be entitled to pass

on the infrastructure development charges paid by him to the plot-holder"". According to Sub-sections (6) & (9), the amount of infrastructure

development charges shall be spent for stimulating socio-economic growth and development of major infrastructure projects for the benefit of the

State of Haryana.

22. Section 5 of the 1975 Act requires the colonizer to deposit 30% of the amount realized from the plot-holders in a separate account to be

maintained in a scheduled Bank, only to be utilized towards meeting the cost of internal development works in the colony.

23. The other provisions of the 1975 Act need not be referred to except that in exercise of its power u/s 24 which enables the State Government

to make rules - The Haryana Development and Regulation of Urban Areas Rules, 1976 - have been notified for carrying out the purposes of the

1975 Act.

24. The conjoint reading of its various provisions bears out that the legislative policy of the 1975 Act is to ensure regulated urbanization in the State

for which private colonizers are to be encouraged to seek licence for setting up different projects envisaged under the Act. The colonizer who

owns the requisite land is required to get the lay-out of the colony approved and then execute the development works. The development scheme

of his colony must be in ""conformity of the development schemes of those of the neighbouring areas"".

25. The 1975 Act divides the development works into two parts namely, (i) external development works; and (ii) internal development works. The

internal development works, as illustrated in Section 2(i) are required to be executed by the colonizer but so far as the external development

works, defined in Section 2(g), are concerned, the Statute gives an option that these may be carried out either by the State Government or a local

authority [see Section 3(3)(ii)] or by the colonizer subject to the mandate of Section 3(2)(f) of the Act. If the Licensing Authority decides that the

external development works shall be carried out by the State Government or the local authority, in that event the colonizer is obligated ""to pay

proportionate development charges"".

26. The other significant component of the declared legislative policy is found ingrained in Clause (iv) of Sub-section (3) of Section 3 which

obligates the colonizer to construct at his own cost, schools, hospitals, community centres and other community buildings on the lands set apart for

this purpose. In the event of the colonizer''s failure to do so, Clause (iv-a) mandates him to pay the proportionate cost of construction of such

percentage of sites of these public utilities at the rates as may be specified by the Director.

27. There is no gainsaying that while determining the cost of sale of a site in the ''colony'' developed by a colonizer, the burden of entire cost

amount spent on Internal or External Development Charges is passed on to the plot holder-cum-allottee in addition to the prescribed percentage of

profit to which such colonizer is entitled to. The payment made by the colonizer u/s 3A towards infrastructure development charges is also

recoverable from the plot holder as provided under Sub-section (4) of Section 3A.

28. We do not see any provision in the 1975 Act capable of construing to say that the State Government or a Local Authority is under a statutory

obligation to carry out the external development works. Section 3(3)(ii) is unambiguously optional and does not cast any duty on the State or a

local authority for compulsory execution of the external development works. The Statute obligates the colonizer to carry out the external

development works at his own and that too in conformity with the development schemes of the colony land of the neighbouring areas. It is only

when the State or its Local Authority elects to execute the external development works that the colonizer is obligated to pay the proportionate

charges incurred on the execution of such works.

29. It is, thus, a totally farcical, misleading and distorted plea taken by the State authorities in their written statement that it is their beholden duty to

execute the external development works under the 1975 Act or that the acquired land is still needed for such like bona fide public purposes. We

reiterate at the cost of repetition that while the 1975 Act does not cast any obligation on the State or the local authority to provide the external

development works, they can at best opt for executing such works at the cost and on the land set apart by the colonizer for such works. Not an

inch of land is to be made available or to be acquired by the State for the execution of external development works as the scheme of the Act

through Section 3(3)(iv) obligates the colonizer to set apart the lands for these works. The ulterior object behind acquiring land for public utilities is

to enable the private builders in exploiting commercially every inch of their own land and maximizing their profits. It is for this precise reason that

the land which a colonizer has to set apart for public utilities is permitted to be used for his own licensed project and instead, the lands of small

scale farmers are forcibly taken away for those very purposes. The allegations made by the farmer-petitioners that their land has been acquired by

giving mischievous and self-serving interpretation to the provisions of 1975 Act so as to give undue favour to the private builder-cum-coloniser,

thus, carry weightage. The petitioners appear to be right in contending that since they did not come under the pressure tactics of the land mafia

prowling in the area that their lands have been usurped out of vengeance.

30. The State machinery has bent over backwards to favour the private colonizers to such an extent that even though the 1975 Act enables the

State to recover the entire cost of external development works from the colonizers, which necessarily includes the cost of the land as well, without

putting any burden on the State exchequer, yet the landowners have not received compensation even near to what the colonizer has paid as sale

consideration for the adjoining land, in addition to one or two developed plots also. The colonizer too does not pay a penny on his own, hence the

entire burden is passed on to the plot-holders/allottees. The State action thus is ex facie unjust, unfair, arbitrary, whimsical and directly in the teeth

of Article 14 read with Article 300-A of the Constitution.

31. That apart, the acquisition was for the development of residential and commercial sectors by HUDA, namely, a State agency who is expected

to allot residential plots on no-profit-no-loss basis in terms of Regulation 4 of the Haryana Urban Development [Disposal of Land and Buildings]

Regulations, 1978 which reads as follows:--

the tentative price/premium for the disposal of land or building by the Authority shall be such as may be determined by the authority taking into

consideration the cost of land, estimated cost of development, cost of buildings and other direct and indirect charges, as may be determined by the

Authority from time to time.

(Emphasis applied)

32. If the State Government or its agency knew their incapacity either to pay compensation for the acquired land or to develop the land for the

notified public purpose, how can they then justify the issuance of Section 4 or 6 notifications. There can thus be no other inference but to hold that

powers under the 1894 Act have been misused to benefit the private builders and other affluent individuals who meanwhile purchased the land

from original owners. We may hasten to add that nothing prevents a private builders-cum-developer to purchase land in open market and pass on

the burden to their allottees. The manner in which the impugned acquisition commenced with a proposal to acquire over 1400 acres of land but

culminated into the acquisition of 87 acres of land testifies that the very object of the subject acquisition was meant to achieve extraneous and alien

considerations, unknown to the scheme of the 1894 Act.

33. We do not say anything more at this stage for the reason that unfortunately the beneficiary builders or affluent individuals are not party

respondents before us. We leave this issue open to be deeply gone into in an appropriate case.

34. The petitioners in these cases deserve to succeed also on the additional ground that the so-called compliance of Section 5-A of the 1894 Act

is an empty formality. The State and the Land Acquisition Collector both have admitted in their respective written statements that the petitioners

(CWP No. 14006 of 2013) in their objections submitted u/s 5-A specifically averred that they have constructed a residential house and a well

along with putting a barbed wire fencing around their land. The Land Acquisition Collector dealt with their objections in the most casual and cryptic

manner as may be seen from his report (Annexure R/1), the relevant part of which reads as follows:--

35. Similarly, the petitioners in CWP No. 24033 of 2013 have placed on record copies of their objections (Annexure P2) pointing out that in the

revenue record also their land is mentioned as "gair mumkin makan" (residential houses) and is so recorded in the jamabandi as well for the year

2001-02. They have attributed motives to the Land Acquisition Collector who did not conduct any proper survey of the residential houses in

existence for the last over 20 years. The petitioners have corroborated their plea by placing on record the photographs (Annexure P15) which

leave no room to doubt that the old houses are being used for bona fide residential purposes since decades. It is deplorable that the authorities

have chosen to close their eyes and overlooked these residential houses which were undoubtedly in existence much before the issuance of Section

4 notification. None of these can be permitted to be acquired not only because the Government policy protects such structures but this Court has

also in CWP No. 21572 of 2011, Rohtash & Ors. v. State of Haryana & Ors., decided on 4th September, 2013 held that:--

the right to shelter is a vibrant component of right to live with dignity and is one of the most sacrosanct fundamental right guaranteed under Article

21 of the Constitution

36. Likewise, the petitioners in CWP No. 25737 of 2013 have appended the copy of objections filed u/S. 5-A (Annexure P2). It would be useful

to reproduce the following averments made therein:--

2. That Petitioners/Objectors are using their land for the residential and as bara for the purpose to tie and keep their catties and valuable trees and

plants also exists. The. said residential structure and cattle bara is duly surrounded by barbed wire. The petitioners are keeping their catties in that

bara/dera and also using the land for residential purpose since many years ago. If the above said land of the petitioners is acquired the petitioners

would come on the road and it is very difficult to arrange baras for their catties in the nearby vicinity. 3. That the said land under notification is the

land extended in Lal Dora and extended Lal Dora can never be acquired for notified u/S. 4 of the Land Acquisition Act, 1894. And the above said

land surrounded by and is part of the residential colony and in the vicinity of "Village Abadi" and is of an immense value.

37. In a catena of decisions the Supreme Court has ruled that submission of objections u/s 5-A and objective consideration thereof by the

Collector is the only limited right available to an affected landowner to defend and protect his property against the mighty power of eminent

domain. In a recent decision in Usha Stud and Agricultural Farms Pvt. Ltd. and Others Vs. State of Haryana and Others, it has been held that -

23. Section 5-A, which embodies the most important dimension of the rules of natural justice, lays down that any person interested in any land

notified u/s 4(1) may, within 30 days of publication of the notification, submit objection in writing against the proposed acquisition of land or of any

land in the locality to the Collector. The Collector is required to give the objector an opportunity of being heard either in person or by any person

authorised by him or by pleader. After hearing the objector(s) and making such further inquiry, as he may think necessary, the Collector has to

make a report in respect of land notified u/s 4(1) with his recommendations on the objections and forward the same to the Government along with

the record of the proceedings held by him. The Collector can make different reports in respect of different parcels of land proposed to be

acquired.

38. In total disregard to the repeated interpretation given to Section 5-A by the Apex Court, the Collector in the instant case does not even make

a whisper about the existence of residential houses or the old well said to be existing on one or the other acquired land. The Collector, for the

reasons best known to him, completely abdicated his duty and sent a report to favour the cause of private builders. The notification u/s 6 and the

subsequent Award thus cannot sustain for this reason as well.

39. Even if the stand taken by respondent No. 1 in its written statement that the petitioners'' land is lying vacant is assumed to be correct, yet the

discrimination is writ large as the fact that huge chunks of vacant land have also been released is undeniable. The petitioners'' land is being

expropriated only because they refused to come to the terms unilaterally dictated to them by the State sponsored developers.

40. That poverty is a curse is true, but how can a welfare State deny the release of petitioners'' property only because their houses are poorly

constructed or are of ''C class construction as is depicted in one of the photographs relied upon by the respondents. The Supreme Court has more

than once held that for the purpose of releasing or acquiring a property there can be no classification like the A, B or C class constructions. The

action of the authorities in denying the release of the constructions raised by the petitioners not only defy their own policy but also discriminates

against the petitioners through artificial classification.

41. For the reasons aforestated, the writ petitions are allowed; the impugned notifications dated 2nd June, 2009 and 2nd June, 2010 issued under

Sections 4 & 6 of the Act and the award dated 29th May, 2012 to the extent of acquisition of their respective land are, hereby, quashed. Ordered

accordingly. Dasti.