

(2006) 05 P&H CK 0201
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3446 of 2006

Amit Bakshai and Another	Vs	APPELLANT
Union Territory of Chandigarh and Others		RESPONDENT

Date of Decision : 11-05-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5A, 6

Citation : (2006) 144 PLR 577 : (2006) 3 RCR(Civil) 685

Hon'ble Judges : Mahesh Grover, J; Ashutosh Mohunta, J

Bench : Division Bench

Advocate : Shailendra Jain, for the Appellant; K.K. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Mahesh Grover, J.—The land of the petitioners was acquired by the respondents for a public purpose, namely, "Provision of City Level Infrastructure, regulated Urban Development of the area between Chandigarh and Mani Majra; the planned development and expansion of Chandigarh Technology Park; and the Protection of Ecology and Environment of Sukhna Choe Water Shed", vide notification issued on 1.10.2002 under the provisions of Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"). In fact, two notifications were issued on 1.10.2002 each pertaining to different chunks of land. Subsequently, these notifications were succeeded by two notifications u/s 6 of the Act issued on 19.9.2003 and 29.9.2003. Some areas were released from acquisition.

2. The acquisition was completed and the respondents entered possession of the acquired land. The petitioners had earlier unsuccessfully challenged the acquisition proceedings up to the Supreme Court. The end result, therefore, is that the acquisition stood complete in all respects.

3. The petitioners have now filed the present petition by which they have prayed that they are oustees, since their land has been subjected to acquisition by the Chandigarh Administration and a certificate to that effect has been issued by the

office of respondent No. 3. They have prayed, on the strength of this certificate, that they are entitled to the benefit of an alternate dwelling unit under the Chandigarh Allotment of Dwelling Units to the Oustees of Chandigarh Scheme, 1996 (hereinafter described as "the 1996 Scheme").

4. It has been pleaded that the 1996 Scheme made a provision for allotment of dwelling units to the oustees under various schemes floated by the Chandigarh Housing Board (for short, "the Board") and the extent of allotment was to be determined by the Board, as also the consequent allotment was to be made in the manner as prescribed under the Chandigarh Housing Board (Allotment, Management and Sale of Tenements) Regulations, 1979 (hereinafter referred to as "the Regulations").

5. The petitioners have relied on the judgment of the Apex Court reported as State of U.P. Vs. Smt. Pista Devi and Others, to press home their point for rehabilitation.

6. Attention has also been drawn to the award made by the respondents which is on record as Annexure P-5. Herein, the Land Acquisition Officer, while making the award, had observed as follows:

Uprooting of agriculturists is humanitarian issue which is being duly taken care of by the administration by way of oustees scheme. As regards uprooting trees, efforts are always made to save and accommodate grown-up trees in the planning except where planning compulsions do not allow that flexibility.

7. Another plea raised by the petitioners is that petitioner No. 1 is professionally qualified and, therefore, he is entitled to a plot for residential purposes in the Technology Park being an Information Technology professional himself.

8. The respondents have filed written statement. At the out-set, it has been pleaded that objections of the petitioners u/s 5A of the Act had been heard and the entire process of law had been duly followed while making the acquisition. The respondents have averred that the petitioners had challenged the acquisition and lost up to the Supreme Court and in view of this, they cannot make any grouse of the acquisition proceedings time and again.

9. The existence of the 1996 Scheme was not denied, but it has been pointed out that this Scheme is subject to the rules and Regulations of the Board and a person has to comply with the procedure and fulfil the eligibility criteria as stipulated thereunder. The respondents have averred that the oustee is further required to submit an application for such allotment, but the petitioners have failed to do so. Apart from that, it has been pointed out that the land of the petitioners had been acquired for Chandigarh Technology Park which is an integrated project being developed through a private sector company by the process of global tendering and the said integrated project is not a housing scheme of the Board. It has further been pointed out that the quota for the oustees has not been provided for, in the setting up of this Technology Park as an

integrated project. Further, an oustee is required to be allotted a dwelling unit under any of the schemes of the Board and in all the schemes floated by the Board, a quota for oustees is provided. Infact, the quota has to be shifted to the general quota which is also the requirement of the 1996 Scheme.

10. We have heard learned Counsel for the parties at length and carefully perused the record.

11. To support their claim for allotment of a dwelling unit, the petitioners have placed reliance on the judgment of the Supreme Court in Smt. Pista Devi's case (supra). In that case, their Lordships had expressed the hope that Meerut Development Authority, for whose benefit the land in question had been acquired, will, as far as practicable, provide a house site or shop site of reasonable size on reasonable terms to each of the expropriated persons who have no houses or shop buildings in the urban area in question.

12. There is absolutely no doubt that the Supreme court was concerned about the rehabilitation of the persons, who had lost their property in acquisition even though for a general good or for a public purpose. In that case, there was no provision for rehabilitation of the affected persons. However, in the instant case, Chandigarh Administration has already formulated a policy which is in existence since 1996 and the oustees are entitled to apply for dwelling units under the Schemes floated by the Board. A specific quota has been fixed and all allotments are subject to the rules and Regulations of the Board which is an appropriate body for providing dwelling units in Chandigarh in a planned and developed manner.

13. The intent of rehabilitation, however, cannot be extended so as to say that the persons seeking rehabilitation should be rehabilitated in the area which has been acquired. If that were so, then there was no need of uprooting a person by resorting to acquisition of his property. Every persons, who is settled on the land which is subject-matter of acquisition would seek to get his certain area released from acquisition. In that eventuality, purpose of acquisition would be defeated.

14. We cannot accept the plea of the petitioners that they should have been rehabilitated on the same area which has been subjected to acquisition. Petitioner No. 1, on the strength of his educational qualifications, cannot be considered for rehabilitation in the area under acquisition as the educational qualifications have no nexus with the scheme of rehabilitation.

15. Apart from the above, the respondents have clearly stated that as and when the schemes are floated by the Board for allotment of dwelling units, the petitioners shall be free to apply in the same and they would be considered under the oustee's quota if they make such an application.

16. In our considered opinion, there is no absolute right vested with the oustees to get a dwelling unit in the same area from which they have been ousted as a consequence of the acquisition. The persons including the petitioners, whose land

had been acquired, have been compensated under the provisions of the Act. The 1996 Scheme is only an attempt to further rehabilitate the affected persons, but this Scheme is also subject to the rules and Regulations of the Board and it cannot be said that every persons, whose land has been acquired, would be entitled to a dwelling unit as a matter of right. He would be subjected to the conditions of the 1996 Scheme and the Rules and Regulations of the Board.

For the reasons recorded above, we do not find it a fit a case to issue any further directions in the matter, more particularly when there is a scheme already in existence. Needless to say, the petitioners would be free to apply for dwelling units as and when appropriate schemes for allotment are floated by the respondents.

The writ petition is disposed of accordingly.