

(1993) 03 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3024 of 1982

Baldev Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 23-03-1993

Acts Referred:

Citation : (1993) 2 CurLJ 240 : (1993) 2 LJR 319 : (1993) PLJ 362 : (1993) 2 RRR 289

Hon'ble Judges : V.K.Bali, J

Advocate : Mr. Suresh Monga, Deputy Advocate General (Haryana)., Advocates for appearing Parties

Judgement

V.K. Bali, J.—Petitioners Baldev Singh and others seek a writ in the nature of certiorari so as to quash notification dated 9.6.1982 issued under Section 4 read with Section 17 sub clause (2) (c) and (4) of the Land Acquisition Act (hereinafter to be referred as the Act) as also follow up declaration issued under Section 6 of the Act on 30.6.1982.

2. The facts of the case reveal that the petitioners are owners of land as detailed in para 2 of the writ petition situated in village Balu, Tehsil Narwana District Jind. It is their case that the land is situated near the village "abadi" is very fertile and valuable. The State of Haryana, respondent No. 1 herein, earlier too issued notification under Section 4 read with Sections 17(2)(c) and 17(4) of the Act vide which the land of Kishan Chand alongwith some other covillagers was acquired. The aforesaid notification was issued on 24.5.1976. On the same day, another notification was issued by the respondent State under Section 6 of the Act declaring that the land mentioned therein had been acquired for public purpose i.e., allotment of residential plots to landless/homeless Harijans and members of Backward Classes in the village. The right holders affected by the aforesaid notification came up in this Court Writ Petition No. 4362 of 1976. The Deputy Advocate General Haryana made a statement on 8.9.1976 before the Motion Bench that the State Government was considering the withdrawal of the

impugned notifications. In view of the statement of the learned counsel for the State, the petitioners did not further agitate the matter and the writ petition was, therefore, dismissed. In consonance with the statement made by the Deputy Advocate General notifications referred to above were withdrawn. However, that was not the end of the matter as once again the land was acquired vide notifications dated 31.1.1977 Annexures P.3 and P4. Once again the issuance of notifications acquiring the land was challenged by the affected right holders in Civil Writ Petition No. 941 of 1977. After notice of motion, even the notifications issued on 31.1.1977 were withdrawn. On 3.5.1977, the Bench hearing the matter passed the following order:

"Mr. Mehtani now states that the impugned notification has been withdrawn. In view of this the petition is now infructuous and is dismissed as such."

3. It requires to be mentioned that when the land was acquired for the second time, the public purpose was the same as was mentioned in the notification issued prior in point of time. The respondent State did not relent after withdrawing the notifications dated 31.1.1977 as after about five years, once again it issued notifications under Section 4 of the Act which was published in the Haryana Government Gazette on 9.6. 1982 and once again the public mentioned in the notification was the same. Copy of this notification has been annexed with the records of this case as Annexure P.5. Once again in the very notification, a declaration was made that the urgency for the purpose was such that the provisions of Section 5A of the Act should be dispensed with. The follow up declaration came into being on 30.6.1982 (Annexure P.6). It is these notifications, as indicated in the earlier part of the judgment, that have been challenged in the present petition.

4. The cause of petitioners has been contested in the written statement filed by Shri Shankar Lal SubDivisional Officer, Haryana exercising the powers of Land Acquisition Collector on behalf of respondents No. 1 and 2. The fact that earlier as well two notifications were issued and withdrawn in the manner indicated in the petition has not been disputed. It has further been admitted that the public purpose mentioned in the earlier notifications which have been withdrawn was the same as is in the notifications now impugned in this petition. In so far as non inviting of objections under Section 5A of the Act is concerned, it is pleaded that as per policy of the Government, landless/homeless Harijans and members of Backward Class were to be provided residential plots near the Abadi Deb and that the allotment of sites to such persons who belong to weaker Sections of Society was a economic programme of the Government to be implementedurgently and, therefore a declaration was made and the urgency provisions as contained in Section 17 of the Act were invoked. After going through the pleadings of the parties and hearing Mr. Suresh Monga, DAG appearing for the State, I am of the considered view that the cause of the petitioners is meritorious and this petition deserves to succeed. It has been established on the record of this case that even earlier the State endeavored to

acquire the land by invoking the provisions contained in Section 17 of the Act and on both the occasions when the matter came up for adjudication presumably with regard to the necessity of dispensing with the objections of the land owners which are otherwise guaranteed by statute, the Government really felt embarrassed before the Court and had no choice but for to withdraw the notifications. The third attempt to acquire the land for the same purpose after a gap of five years is enough to demonstrate that the so called policy of the Government to acquire land for persons belonging to weaker section of the Society urgently is hollow and is only a paper policy. If the policy really guided the Government to move into the matter urgently, then in that case there was no question for the Government to have waited for five years. The right of the citizen whose land is compulsorily acquired to raise objections under the provisions of the Act is a very valuable right and that cannot be thwarted on flimsy grounds as have been projected in the present case. The purpose of acquisition, the policy of the Government apart, also does not appear to be of such nature which might be of the kind that was enough to deprive a citizen of his right of filing objections, with ultimate aim of protecting his land from compulsory acquisition.

For the reasons recorded above, the present writ petition is allowed with costs quantified at Rs. 1,000/. Notification issued under Section 4 of the Act, Annexure P.5 as also follow up declaration issued under Section 6 are quashed.