
(2013) 07 P&H CK 0672
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 9160 of 2013

Beer Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-07-2013

Acts Referred:

Citation : (2013) 172 PLR 221

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

Bench : Division Bench

Advocate : Ram Bilas Gupta, for the Appellant; S.S. Patter, D.A.G., Haryana and Mr. Tarun Sharma for Mr. Raghujeet Madan for HUDA, for the Respondent

Judgement

Surya Kant, J.—The petitioners seek quashing of the notifications dated 07.02.2008 and 06.02.2009 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short "the Act") respectively as also the award dated 04.02.2011 whereby the land/property situated within the Revenue Estate of village Faijpur Majra Neemka, Tehsil and District Faridabad has been acquired for its utilization for developing residential and commercial Sectors- 76, 77, 78 in the urban estate of Faridabad. One of the pleas taken by the petitioners in support of their claim is that they have constructed residential houses with "A-Class construction" which is entitled to be released from acquisition in the light of the Government Policy dated 24.01.2011.

2. The State of Haryana-respondents have filed their reply-affidavit stating that the release of constructed properties, which were in existence at the time when notification u/s 4 of the Act was issued, is not disputed. They, however, allege that in the present case, the land in dispute at that time was entirely vacant. No objection u/s 5A of the Act were filed by the petitioners against the notification issued u/s 4 of the Act, which were duly published in accordance with law. Thereafter, in para 13 of the written statement, the respondents have averred as follows:

That the petitioner No. 1 was co-sharer to the extent of 25/467 share in Khasra No. 25//I/2/1/1 and there was a residential house of petitioner No. 1 over his above said land. The petitioner No. 2 was co-sharer in Khasra No. 22//12/2 & 22//19/1 to the extent of 1/20 share and 79/980 share respectively. The land of petitioner No. 2 was entirely vacant at the time of issuance of notification u/s 4 of the Act. The petitioner No. 3 and 4 were co sharers of the land comprised in khasra No. 25//11/2 to the extent of 1/3 share and 1/6 share respectively. There was some constructions over the land of petitioner No. 3 & 4 at the time of notification u/s 4 i.e. shed/room 15" ? 10", 12" ? 10" & 40" ? 12" and remaining construction i.e. 62" ? 18" and 44" has been made by the petitioners No. 3 & 4 subsequent to the notification u/s 4 of the Act. It is worth mentioning here that all the above said constructions are used as Dairy and Cattle Shed.

3. It would, thus, be seen that though existence of construction on the petitioners' land is admitted by the respondents but they have objected to admit the claim of release on the ground that the objections u/s 5A of the Act were not submitted on time.

4. The question whether non-submission of objections by the land owners u/s 5A of the Act are so fatal that, notwithstanding the Government Policy dated 24.01.2011, the constructed property cannot be released from the acquisition, has been considered by a Division Bench of this Court in CWP No. 11089 of 2011 titled as "Jai Pal and others v. State of Haryana and others decided on 18.07.2011 (P-27).

5. This Court held that in view of the existing policy of the State Government it was irrelevant or not the objections u/s 5A of the Act were filed. We are in respectful agreement with the view taken in the above cited case, hence allow this writ petition to the extent that the respondents are directed to re-consider the claim of the petitioners for the release of constructed portion of the property in the light of the decision of the Division Bench in Jai Pal's case (supra). The respondents may carry out the acquisition of petitioners' land/property and take an appropriate decision after hearing, within a period of six months" from the date of receipt of a certified copy of this order. Till the final decision is taken, status quo shall be maintained between the parties.