

(1988) 11 P&H CK 0073
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2892 of 1986

Dalbir Singh and ors.

APPELLANT

Vs

State of Haryana and ors.

RESPONDENT

Date of Decision : 26-11-1988

Acts Referred:

Citation : (1989) PLJ 602 : (1989) 2 RRR 440

Hon'ble Judges : G.C.Mital, J and S.D.Bajaj, J

Advocate : S.D. Sharma, Advocate., Advocates for appearing Parties

Judgement

S.D. Bajaj, J.

1. Vide notification No. SE/Karnal Circle P.W.D., B. and R./934/R. dated March 19, 1986 issued under Section 4 of the Land Acquisition Act, 1894 as amended upto date, State Government of Haryana in the P.W.D. (Buildings and Roads) Branch acquired 1626 acres of agricultural land for the construction of pacca road from village Sewan to village Kheri Gulam Ali, both situated in Kaithal tehsil of Kurukshetra district.

2. Twentythree petitioners in CWP No. 2892 of 1989, who are all residents of village Kheri Gulam Ali and owned 360 Kanals 5 Marlas of acquired land detailed in para 2 of the writ petition aforesaid have assailed the notification of acquisition on the grounds (i) that a kacha road marked CDEF which is 271/2 feet wide already exists from village Sewan to village Kheri Gulam Ali, that another Kacha road nearly 161/2 feet wide already exists upto village Sewan and is, therefore, required to be extended from Sewan to village Sewan only and as such the acquisition of disputed lands cannot be said to have been made for a public purpose; (ii) that a gurdwara and many tubewells fall on the way which may have to be demolished/closed down if the proposed road is allowed to be built; (iii) that there has been no publication of the notification in two leading newspapers as required by law nor has the acquisition notification been published at site; and that (iv) illegal and mala fide acquisition is going on at the instance of local M.L.A. who is out to wreak vengeance against the petitioners for

their having not voted for him at the elections.

3. In reply the State admitted the existence of both the kacha roads, one 271/2 feet wide and the other one 16 feet wide and stated that neither of the two kacha roads aforesaid was, in fact being used by people as means of approach from village Sewan to village Kheri Gulam Ali. In fact, the 271/2 feet wide kacha road passed through a thick jungle inhabited by wild animals and, therefore, the people were not using it. It was also asserted that 15 'Deras' fall on the way. Residents of these 'Deras' could not use the kacha road aforesaid because of its being circuitous and inordinately long distance. It was for the reasons aforesaid that State Government had on a popular demand decided to build the pacca road and acquired the land for it. The allegation of existence of any gurdwara or tubewell on that way was denied. It was further stated that the land was being acquired for a public purpose and the alleged infirmities did not exist either in the contents or the manner of due publication of the impugned notification. It was, therefore, asserted that the writ merits dismissal.

4. We have heard Shri S.D. Sharma, Advocate for the petitioners, Mrs. Abha Rathore, Advocate, for the respondent State and carefully examined the original notification issued by the respondent State for acquisition of land needed by it for building pacca road.

5. After reading the original of report roznamcha bearing No. 492, dated April 4, 1986 learned counsel for the petitioners frankly conceded that the only omission in the publication of the acquisition notification in Papers Danik Tribune and National Herald two leading dailies was of Khasra No. 41/25, which did not belong to anyone from amongst the twentythree petitioners. The alleged defect in publication of the substance of the notification under section 4 of the Land Acquisition Act, therefore, did not cause any prejudice to anyone of the petitioners; all of whom without exception filed objections under section 5A of the Act; which have been duly considered and disposed of by the appropriate authority before the issue of the notification under section 6 of the Act. In fact, the notification under section 6 in respect of the acquired land is yet to be issued. Bishna alias Bishan Singh v. The State of Punjab and others, 1980 Punjab Law Journal 510, Chamel Singh and others v. State of Haryana and others, 1985 Punjab Law Journal 604 : 1985 R.R.R. 32, are both authorities of our own High Court for the view that unless prejudice is caused to the petitioners in any manner noncompliance of the provisions of section 4(1) of the Land Acquisition Act on the part of the respondent State does not render the acquisition invalid. Similarly, the Supreme Court also observed in the case of Deepak Pahwa etc. v. Lt. Governor of Delhi and others, AIR 1984 Supreme Court 1721 : 1984 R.R.R. 207 that time gap in between the publication of notification under section 4(1) of the Land Acquisition Act in two dailies and in the locality would be of no consequence and would not invalidate the notice if delay has not caused prejudice to anyone.

6. In the present case, as already observed no prejudice has been caused to

anyone of the twentythree petitioners before this Court because the omitted Khasra No. 41/25 does not belong to anyone of them. There in thus no merit in the writ petition. It, therefore, fails and is consequently dismissed with costs.