
(2014) 04 P&H CK 0159
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 3163 of 2014 (O&M)

Devender	Vs	APPELLANT
State of Haryana		RESPONDENT

Date of Decision : 11-04-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2014) 04 P&H CK 0159

Hon'ble Judges : Surya Kant, J; Lisa Gill, J

Bench : Division Bench

Advocate : Ajay Jain, Advocate for the Appellant; Palika Monga, DAG Haryana and Mr. Devender Arya, Advocate for Mr. Partap Singh, Advocate for Respondent No. 3, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Surya Kant, J.—This order shall dispose of CWP Nos. 3163, 5086, 5087, 5094, 5096 & 5100 of 2014 as common questions of law and facts are involved in these cases. The facts are being extracted from CWP No. 3163 of 2014.

2. The petitioner impugns the notifications dated 03.05.2012 and 01.05.2013 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (in short, "the Act"), respectively as well as the order dated 28.01.2014 (Annexure P8) rejecting his claim for the release of acquired land/property.

3. The petitioner's land described in para 2 of the writ petition forms part of the acquisition carried out vide the impugned notifications whereby more than 77 acres land has been acquired for setting up a New Grain Market at Mohindergarh.

4. The aggrieved petitioner earlier approached this Court in CWP No. 10651 of 2013 and other connected cases which were disposed of vide order dated 15.07.2013 observing as follows:-

9] From the photographs coupled with the site plan Annexure P-16, it does

appear that there are scattered residential houses on a part of the acquired land. In the light of the Government policy dated 26.10.2007 (Annexure P-3) relied upon by the petitioners, more so when the Land Acquisition Collector has also recommended exemption of the land from acquisition, we are of the considered view that the claim of the petitioners requires dispassionate and objective consideration at the hands of the Competent Authority.

10] The Court does not possess the expertise to choose the site for setting up the new grain market nor the petitioners can be made judge of their own cause for the selection of site. None-the-less, the offer given by them for acquisition of another chunk of land which is statel less than one kilometer away from the present site, deserves serious consideration by the Competent Authority provided that the new site fulfills such defined parameter.

11] For the reasons afore-stated, we dispose of these writ petitions with a direction to respondent No. 1, namely, the State Government, to re-consider the matter in the light of the observations made herein-above and the plea taken by the petitioners in their writ petitions and take a holistic view while passing the speaking order after giving hearing to the affected persons in representative capacity, before taking the decision. We shall appreciate if the decision is taken by the State Government as early as possible and preferably within a period of three months from the date of receiving a certified copy of this order.

5. In compliance to the above reproduced directions, the Principal Secretary, Agriculture Department, Government of Haryana has passed a self-speaking order dated 28.01.2014 holding as follows:-

I have carefully considered the contentions raised by the petitioners in their Writ Petitions and the contentions raised by the representationists in their representations. I have also considered the issues raised and the pleadings made before the undersigned on 27.11.2013 by the learned counsel for the petitioners and the representatives of the representationists. I have come to the conclusion that the land in question has to be acquired for setting up a New Grain Market at Mahendergarh as the existing Grain Market has become too congested and would have to be de-notified to prevent the frequent occurrence of traffic jams in the existing Mandi particularly during the procurement season. The contention of the petitioners that site No. 2 would be more suitable for acquisition is not tenable as there are some structures on the said land as well and CWP No. 1821 of 2005 is also pending in the Hon"ble High Court in which status quo has been granted by the Hon"ble High Court with respect to possession of the said land. Moreover, similar problems/issues would be raised by the landowners of the said land. The Site Selection Committee after considering various aspects of the matter had found site No. 1 most suitable. Therefore, there seems to be no justification to reject the recommendations of the Site Selection Committee which had recommended acquisition of the land which is being acquired vide the notifications under challenge by the petitioners. A perusal of the site map of the land under acquisition shows that most of the houses which exist on this land fall

well inside the land being acquired and the same cannot be released from acquisition as it will affect the overall planning of the New Grain Market Adversely.

(Emphasis applied)

6. As is evident from the impugned order also, the point in issue raised by the petitioner(s) is whether the New Grain Market should be set up at the site option No. 1 or option No. 2 fully depicted in the site plan (Annexure P9)? It was in this factual backdrop that the directions reproduced in para-4 were earlier issued by this Court. On re-consideration of the whole matter and taking into consideration the merits and de-merits of both the sites and other relevant factors that the State Government has formed a holistic view that its earlier decision to go ahead with Option No. 1 is fully justified.

7. In our considered view, the bona fide and genuineness of the public purpose behind the subject-acquisition is beyond any doubt. The fact that more residential houses would be affected if Option No. 1 is accepted, as compared to Option No. 2, has to be weighed with reference to the reasons assigned by the authorities who possess the requisite expertise and resources to determine the suitability of a site.

8. The petitioner's assertion that Option No. 2 is better than Option No. 1, impliedly suggests the land of other farmers/landowners may be acquired to save that of the petitioners. In such like situation, the individual hardship or inconvenience has to be overlooked in public interest.

9. Faced with this, the only question left for consideration is whether the petitioner(s) be granted some reasonable time to construct alternative residential houses, if need be. It was in this backdrop that we called upon the respondents vide order dated 20.02.2014 observing as follows:-

Heard learned counsel for the petitioner.

Though on merits we do not find any substance in the writ petition for the reasons to be recorded later on, however, let notice of motion be issued to the respondents for 28.02.2014 on the limited issue as to why the petitioner be not granted six months time after the payment of compensation for the existing structures, so as to enable him to shift to an alternative residence.

10. In our considered view, it would be fair, just and equitable to direct the respondents not to dispossess the petitioners from their residential houses for a period of six months from the date of payment of compensation so as to enable them to meanwhile raise alternative construction, if they so desire. The above-reproduced interim order is made absolute.

11. We thus do not find any illegality or error in the subject acquisition.

12. Dismissed.