
(1974) 11 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 644 of 1974

Dhana Ram

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 05-11-1974

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 6, 7

Citation : AIR 1975 P&H 218

Hon'ble Judges : Pritam Singh Pattar, J

Bench : Single Bench

Advocate : Karan Singh Saini, for the Appellant; C.D. Dewan, A.A.G., Naubat Singh, Asst. A.G. and Hari Mittal, for the Respondent

Final Decision : Dismissed

Judgement

Pritam Singh Pattar, J.—This is a petition filed under Articles 226 and 227 of the Constitution of India by Dhanna Ram son of Ram Lal, resident of Nalapura. Tehsil Narnaul. District Mohindergarh to issue a writ of certiorari quashing the impugned notification dated 4-5-1972, copy of which is Annexure D to the petition issued u/s 4(1) of the Land Acquisition Act, and notification dated 14-11-1973, copy of which is Annexure "F" to the petition, issued under Sections 6 and 7 of the Land Acquisition Act, whereby agricultural land of the petitioner and others has been proposed to be acquired for the construction of General Bus Stand at Narnaul.

2. It is alleged that Shri Ram Saran Chand Mittal, Minister of Finance. Government of Haryana. Respondent No. 4, contested election to the Haryana State Legislative Assembly from Narnaul constituency and he was opposed by Shri Manohar Lal Saini, Advocate of Narnaul, and that the petitioner was an active supporter of the latter and on account of this. Respondent No. 4 was nursing a grudge against him and in order to cause damage to him, he got his land acquired although the other land was approved by the Committee

constituted for this purpose. It is mentioned that the construction of the Bus Stand was approved at site No. 3 shown in the plan attached to the writ petition but the respondent No. 4, in order to deprive the petitioner of his land, got the land marked at No. 2 (b) in the plan acquired, which included the land of the petitioner.

3. The writ petition was contested by the respondents. On behalf of the State of Haryana, the Provincial Transport Controller and the General Manager, Haryana Roadways, Rohtak, now at Rewari, Shri T. R. Sharma. H. C. S. filed an affidavit, wherein he denied the allegations made in the petition. It was stated that the site in dispute, which comprised the land of the petitioner was selected by the Siting Board in its meeting held on 25-10-1971 and at that time Shri Ram Saran Chand Mittal, Respondent No. 4. Was neither instrumental nor had any say in deciding the land to be acquired for the construction of the Bus Stand. Since most of the land comprised in site No. 3 shown in the plan was evacuee property, regarding which a dispute was pending with the Chief Settlement Commissioner. Rehabilitation, it was, therefore decided to acquire the disputed land. Similar is the written statement filed by the Land Acquisition Collector. Respondent No. 5. Shri Ram Saran Chand Mittal. Respondent No. 4, in his affidavit denied the allegations made by the petitioner against him as baseless incorrect and vague. He admitted that in the last Assembly election held in February/ March. 1972, one Manohar Lal Saini contested the election against him on Vishal Haryana Party ticket. It was pleaded that he was appointed Minister in October, 1972, that he was neither a Minister nor he held any administrative office under the Haryana Government, when the notification u/s 4 of the Land Acquisition Act to acquire this land was issued or when the decision to acquire this land was taken in the year 1971. The petitioner filed a replication denying the allegations made by the respondents in their returns.

4. Mr. Karan Singh Saini, the learned counsel for the petitioner raised the following points for determination during arguments:--

(1) That Notifications u/s 4(1) and also under Sections 6 and 7 of the Land Acquisition Act are vague because the description of the land to be acquired was not given and that no plan was attached to the notifications.

(2) That the land of the petitioner has been acquired because of the mala fide action of Shri Ram Saran Chand Mittal. Respondent No. 4, as he supported his rival candidate, Shri Manohar Lal Sain Advocate, Narnaul in the last Haryana Assembly election.

(3) That the "Siting Board" appointed by the Haryana Government had recommended that the evacuee property marked as site No. 3 in the plan. Ex. P-1 attached to the petition should be acquired for the Bus Stand, but at the instance of Respondent No. 4, the site No. 2 (b), wherein his land was situated, was acquired for constructing the Bus Stand.

5. Notification No. 4519-3-T-72/ 16945 dated 1-5-1972, published in Haryana

Government Gazette dated 9-5-1972 was issued u/s 4(1) of the Land Acquisition Act, for acquisition of 9 Bighas 3 Biswas of land situated in the revenue estate of Narnaul. District Mohindergarh, for construction of Haryana Roadways, General Bus Stand-cum-Workshop at Narnaul. The declaration under the provisions of Section 6 of the Land Acquisition Act regarding the acquisition of this land was issued vide notification dated 14-11-1973 published in the Haryana Government Gazette dated 5-2-1974. In both these notifications, it was mentioned that the land is situated in the revenue estate, Narnaul, Tehsil Narnaul District Mohindergarh and the Khasra Nos. and the area of each Khasra No. was given in both these notifications, which were produced during arguments by the counsel for the Haryana State. Mr. Saini, the learned counsel for the petitioner, argued that no plan of the acquired land was attached to these notifications and therefore, these notifications were illegal. In support of this contention, he relied on *Bahori Lal Vs. Land Acquisition Officer and Others*, . In that case, the notification u/s 4(1) and the declaration u/s 6 of the Land Acquisition Act merely stated that the land proposed to be acquired was of the extent of 2.15 acres in Mauza Mathura Banger, Paraeana Mathura, District Mathura and that the site plan was available for inspection at the office of the Collector. Mauza Mathura Banger was the name of a village, which later formed part of the city but which name continued to be shown in the revenue records. On these facts, it was held that the notification and declaration could not but be treated as illusory and were not adequate or effective fulfilling the requirements of law. Further the circumstance that neither the notification nor the declaration disclosed the fact that the land acquired was situate in that part of the Mathura Banger Village as was included in the Mathura City was vital and the omission vitiated the notification and the declaration and that the mention of the plan did not cure it. The facts of this case are distinguishable and it has no application to the present case. In that case only the area of the land, which was proposed to be acquired, was mentioned in the notification and that no Khasra Nos. were mentioned. In the instant case, in both the notifications u/s 4(1) and Section 6 of the Land Acquisition Act, the khasra numbers and area of each of those khasra numbers were given and this was sufficient description of the land, which was to be acquired for the Bus Stand. It was further mentioned in these notifications that the plan of the land may be inspected in the offices of the Land Acquisition Collector, Narnaul. and Collector. Mohindergarh District and of the General Manager, Haryana Roadways Rohtak. It is well settled law that Section 4 of the Land Acquisition Act only requires that the locality with reference to the land likely to be acquired should sufficiently be indicated in the notification u/s 4, so that all persons interested in the land may get notice of the proposed acquisition and prefer objections, if necessary against the intended acquisition. The mention of khasra numbers and the area of each of the khasra number in the notification u/s 4(1) and u/s 6 of the Land Acquisition Act is sufficient to meet the requirements of the law vide *Mayapati v. State of Haryana* 1972 RLR 722: (AIR 1973 P&H 3561: Jagdish Chand v. State of Haryana. 1972 RLR 353 and *Durga Devi v. State of Punjab*. 1972 RLR 255 (Puni). In the instant case, as mentioned above, in the

notifications u/s 4(1) and u/s 6 of the Land Acquisition Act, khasra numbers of the land proposed to be acquired and the area of each khasra number, the name of the village and the Tehsil and District, were given and this is sufficient to satisfy the requirements of law. It was also mentioned in both the notifications that the plans of the land may be inspected in the offices of the Land Acquisition Collector, Narnaul and the Collector, Mohindergarh District. For all these reasons, the contention of the counsel for the petitioner that the notifications u/s 4(1) and u/s 6 of the Land Acquisition Act are vague has no force and is rejected.

6. The other two contentions of the learned counsel for the petitioner pertain to mala fide allegations against Respondent No. 4, and the same will be decided together.

7. In para. No. 2 of the writ petition, it is alleged that in March. 1971, Shri Ram Saran Chand Mittal. Respondent No. 4, contested the election to the Haryana State Legislative Assembly for Narnaul constituency and he was opposed by Shri Manohar Lal Saini, Advocate, Narnaul. and that respondent No. 4 won that election. The petitioner was alleged to be a supporter of Manohar Lal Saini. Advocate and on account of this the Respondent No. 4 was alleged to be nursing a grudge against him and other Sainis residing at Narnaul. In paras. Nos. 6 and 7 of the writ petition, it is mentioned that the Siting Board appointed by the State Government had recommended the acquisition of land for construction of the General Bus Stand at site No. 3 shown in the plan, Exhibit P-I. attached to the petition but the petitioner came to know that out of the evacuee land marked at site No. 3 some land was allotted to displaced persons and the respondent No. 4 gave a promise that he would save their land if afterwards they would transfer some of the land to him (respondent No. 4) or to his relations, and that at his instance and active help, he got the land of the petitioner and others marked as site No. 2 (b) in plan. Exhibit P-I, acquired. These allegations were categorically denied by Shri Ram Saran Chand Mittal. Respondent No. 4. Annexure "B" to the writ petition is the copy of the minutes of the Siting Board meeting held at Narnaul on 25-10-1971 and it finally recommended that the Transport Department may take action to acquire either site No. 3 or site No. 2 (b) in order of priority, as shown in the plan. It is in the return filed by the State Government, the Provincial Transport Controller and the General Manager, Haryana Roadways. Rohtak that after 25-10-1971 it came to their notice that the land in site No. 3 was mostly evacuee property, regarding which a dispute was Pending with the Chief Settlement Commissioner, Rehabilitation, and that after further discussion of the merits of the sites Nos. 3 and 2 (b) by the General Manager, Haryana Roadways, Rohtak with the Deputy Commissioner. Narnaul it was decided to acquire the land comprised in site No. 2 (b), which was a part of the proposed Mini Secretariat Complex as suitable for the proposed Bus Stand. The recommendations of the Siting Board that site No. 2 (b) is equally suitable for the proposed Bus Stand were also taken into consideration. The choice of selecting a particular place for constructing a Bus Stand is of the State Government and the petitioner cannot object that the site, wherein his Land was

situated, should not be acquired. The total area of the acquired land is 9 Bighas and 3 Biswas and out of this, the area of the land owned by the petitioner is 6 Bighas and 9 Biswas. It was stated before me at the bar by the counsel for the respondents that the General Manager, Haryana Roadways made a final report to the Government for the acquisition of the site No. 2 as shown in the plan. Exhibit P-1 for the construction of the Bus Stand and this recommendation was accepted and the notification u/s 4(1) of the Land Acquisition Act for acquisition of this land was issued on 1-5-1972, and it was published in the Haryana Government Gazette on 9-5-1972. The elections to the Haryana State Assembly took place in March, 1972. Shri Ram Saran Chand Mittal, Respondent No. 4, was appointed as Minister for the first time in October, 1972 and not before that date. At the time when the notification u/s 4(1) of the Land Acquisition Act was issued, he was neither a Minister nor he held any administrative office under the Haryana Government. The notification issued under Sections 6 and 7 of the Land Acquisition Act in February, 1974 is a merely follow up action. He has denied that he was nursing any grudge against the petitioner and the acquisition of this land was made mala fide. All allegations of mala fide have been described by him as vague, incorrect and baseless.

8. In the writ petition or in the replication, the petitioner has not mentioned as to what is the source of his information regarding the mala fide action of the respondent No. 4. The allegations in the affidavit are vague. It is well settled law that if the averments in affidavits are not based on personal knowledge of the petitioner, then the petitioner must disclose his source of information so that the other side gets a chance to verify it and make an effective answer. The affidavits attached to the writ petition should be modelled on the lines of Order 19, Rule 3, Civil Procedure Code, vide *The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others*, . In this case, the petitioner has not stated in his affidavit that he had personal knowledge about the allegations made in the petition that the authorities passed the order of acquiring his land not on their own but at the behest of Respondent No. 4. He has also not disclosed the source of information of these allegations, which are vague and indefinite. Moreover, in this case the Court is not directly concerned with the alleged malice, the Respondent No. 4 might have against the petitioner, but with the malice on the part of the authorities which are respondents 1 to 3. As stated above, during the relevant time, the respondent No. 4 was neither a Minister nor was holding any administrative office under the Government of Haryana. The Government took independent decision to acquire the land taking into consideration its suitability and situation. There is no allegation that there was mala fide exercise of power by the Government in acquiring this land. The Government, in exercise of its statutory powers, validly and bona fide acquired the land. Therefore, the affidavit filed by the petitioner in support of his allegations is no affidavit in the eye of law and the allegations made in the petition are not substantiated at all.

9. It is well settled law that burden of proving mala fide is very heavy on the person, who alleges it. The allegations of mala fide are often more easily made

than proved and the very seriousness of such an allegation demands proof of a high order of credibility. Suspicion, however grave, cannot substitute evidence. An allegation of mala fide and indirect motive or purpose cannot be held established except on clear proof thereof, vide *The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others*, and the Supreme Court judgment reported as *E.P. Royappa Vs. State of Tamil Nadu and Another*, . In the instant case there is no proof on the file to prove the alleged mala fide action of Respondent No. 4. The vague and indefinite allegations made against him were categorically denied by him. The petitioner had no personal knowledge of the allegations made in the petition against Respondent No. 4 and he had mere suspicion about the same and he also did not disclose the source of his information. For all these reasons, it is held that the allegations of mala fide made in the petition against Respondent No. 4 are not established and the contention of the counsel for the petitioner is rejected as devoid of force.

10. No other point was urged in this case. There is no force in this petition and the same is dismissed with costs. Counsel fee Rs. 100/-.