
(1990) 11 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9486 of 1988

Dharam Pal and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 20-11-1990

Acts Referred:

Citation : (1991) PLJ 213 : (1991) 2 RRR 233

Hon'ble Judges : R.S.Mongia, J

Advocate : R.C. Chohan, Advocates., Rajinder Goel, Ajay Aggarwal, C.B. Goel,
Advocates for appearing Parties

Judgement

1. R.S. Mongia, J. The petitioners, who are 47 in number, alleged that they are poor Harijans and Kumhar by caste, had been allotted plots of about 100 square yards each (which are comprised in Rectangle No. 32, Killa Nos. 17 and 18, Rectangle No. 41, Killa Nos. 21 and 11/2) under the 20Point Programme of the Government of India, in order to rehabilitate them. It has been further alleged in the writ petition that most of the petitioners have constructed their houses on the said plots and are living there with their families. The plots were transferred to them by registered deeds and mutations were also accordingly sanctioned in favour of each of the petitioners.

2. It has been further averred in the petition that in the year 1983, a notification was issued for the acquisition of the land in dispute alongwith some other land. The petitioners filed objections against the said acquisition and according to them the matter rested there. Again, on 27th August, 1987, a notification was issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter called the Act), seeking to acquire the land belonging to the petitioners along with some other land for a public purpose, namely, for the development and utilization of the land for a City Centre, Gurgaon, in Sector 29 by the Urban Estate Department. The objections of the petitioners under Section 5A of the Act were rejected and notification under Section 6 of the Act was issued.

3. The learned counsel for the petitioners submitted that the petitioners had

been allotted small pieces of land under 20Point Programme to rehabilitate them and since most of the petitioners have constructed houses on those small pieces of land, the same should not have been acquired by the Government, especially when it had issued instructions that the constructed area would not be acquired. The learned counsel for the petitioners relied on a Single Bench judgment of this Court in *Mohinder Singh Sharma and others v. State of Haryana and others*, 1988(2) RRR 502 : 1988(2) PLR 498.

4. The learned counsel for the respondents submitted that the earlier notification, which was issued in the year 1983, lapsed as the award could not be announced within the statutory period of the issuance of the notification under Section 6 of the Act, and, therefore, fresh notification under Section 4 was published on 27th August, 1987. The learned counsel for the respondents submitted that the petitioners would be paid compensation according to law and there was nothing wrong in the acquisition. Further there was no policy of the Government to leave out the constructed area.

5. Once the petitioners had been allotted land by the Government under some plan (in the present case under 20Point Programme) to rehabilitate them and most of them have constructed their houses (these all facts are not disputed), it is wholly illogical that the State Government should uproot them to make some City Centre or any other such thing. It may not be taken that I am holding that in no case under these circumstances, the Government can acquire the land, but what is being pointed out is that in such cases the Government should make all endeavour to exempt such allotments which were made to rehabilitate the downtrodden and if the State finds that in no case that area can be exempted, then it must make alternative arrangements to rehabilitate them by offering them alternative sites at suitable places with similar construction or give them adequate compensation for the construction. In *Mohinder Singh Sharma's* case (*supra*), a Single Judge of this Court observed, "It was not disputed that according to the Government policy, the land over which the persons had raised construction was not to be acquired." Under these circumstances, the State Government has to see that as far as possible the constructed area should not be acquired. However, in a case like the petitioners who were allotted land to rehabilitate them and the same cannot be exempted from acquisition, then the only alternative is that the Government must offer them alternative sites and compensate them adequately for the construction.

6. In the circumstances, it is directed that efforts should be made to leave out the area belonging to the petitioners from the acquisition and if that is not possible then alternative suitable sites may be offered to them by raising construction similar to the one the petitioners have raised or adequately compensate them for the construction.

7. With these observations, the writ petition is disposed of, with no order as to costs.