
(2008) 01 P&H CK 0171
In the Punjab And Haryana At Chandigarh

Jai Bhagwan

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 22-01-2008

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition (Mines) Act, 1885 — Section 4, 5, 6

Citation : (2008) 149 PLR 740 : (2010) 4 SLR 232 : (2009) 3 SLR 731

Hon'ble Judges : Tej Pratap Singh Mann, J;M.M. Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This petition filed under Article 226 of the Constitution is directed against notification dated 9.12.2002 (Annexure P.5) issued u/s 4 of the Land Acquisition Act, 1894 (for brevity "the Act") and the declaration dated 8.12.2003 (Annexure P.6) issued u/s 6 of the Act as also the award dated 14.7.2004 (Annexure P.7).

2. The notifications have been issued by the respondent-State of Haryana and the award has been announced by the Land Acquisition Collector, Urban Estate, Gurgaon for acquiring the land for development and utilisation for residential, commercial and institutional purposes in Sectors 27 and 42, Gurgaon as shown in the development plan.

3. The instant petition was filed on 8.2.2007. The ground of attack is that the land of the petitioner comprised in khasra No. 467 measuring 1 kanal 4 marla as Gair Mumkin land which has super structure alongwith the tube-well standing on the spot. It has been averred that the land alongwith super structures deserve to be exempted from acquisition.

4. In the written statement filed by respondent Nos. 1 and 3 it has been pointed out that the notification u/s 4 of the Act was published in two newspapers and the Government gazette on 9.12.2002 and entry in that regard was made in

Patwari Halqa Roznamcha Wakayati vide rapat No. 179 dated 17.12.2002. The notification was also pasted on the notice board of Halqa Patwar Khana and Tehsil Office. Munadi was also effected through village chowkidar by beat of empty canistar. The objections of the petitioner filed u/s 5A of the Act were considered after giving an opportunity of personal hearing. After consideration of objections, the Land Acquisition Collector sent his report recommending the land for acquisition and then respondent-State had issued a declaration u/s 6 of the Act on 8.12.2003 which again was published in the official gazette as well as in the newspapers. The rapat dated 19.12.2003 about the declaration was entered in the Roznamcha Wakayati Halqa Patwari. With regard to the assertion that structure with tube-well is standing on the spot, the respondent-State has pointed out that there was temporary structure of a room measuring 12 ft. x 12 ft and another room measuring 10 ft. x 10 ft. Besides the afore-mentioned structure there were 80 jhuggis.

5. Having heard the learned Counsel at some length we are of the considered view that all steps concerning acquisition in accordance with the provisions of the Act have been taken which includes issuance of notification u/s 4 of the Act, hearing of objections and declaration u/s 6 of the Act. The acquisition was thus completed in the years 2002-03. Even the award was announced on 14.7.2004. The present petition has been filed on 8.2.2007 which shows inordinate delay. There is no explanation furnished by the petitioner for the delay in approaching this Court. The land appears to have jhuggis and temporary structure and there was no construction of "A" Class category before the issuance of notification u/s 4 of the Act nor there was any dwelling unit/ residential house at that time as is the categorical stand taken in para 5 of the written statement which remains un rebutted. A glance of the photographs Annexure P.4 would show that some new construction at the back of the pyramid type building is coming up even at the time of taking photographs. Therefore, it appears that the delay in filing the petition has been consumed for indulging in illegal construction activities which obviously is after the issuance of notifications u/s 4 and 6 of the Act. There is thus no merit in the petition and the same is accordingly dismissed.