

(2006) 07 P&H CK 0185
In the Punjab And Haryana At Chandigarh

Kashmir Katha Industries

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 06-07-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Land Acquisition Act, 1894 — Section 17, 4, 5A, 6

Citation : (2007) 145 PLR 272 : (2006) 4 RCR(Civil) 447

Hon'ble Judges : P.S. Patwalia, J; Ashutosh Mohunta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

P.S. Patwalia, J.—The petitioner has filed the present writ petition challenging the notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter to be referred as, "the Act") dated 15.2.2002 and 15.6.2002 respectively. At the time of hearing, the only argument raised by the petitioner was that the respondents have wrongly invoked the urgency provisions u/s 17 of the Act in the present case and deprived the petitioner of its right to raise objections u/s 5A of the Act. In response thereto the respondents have pointed out that in 50th Year of Independence, the State of Haryana and published a New Industrial Policy in the year 1997 for rapid industrialisation of the State. The said policy contemplated the establishment of Industrial Parks/Estates falling within the National Capital Region as well as outside. An Industrial Estate had been developed at Kundli which is located on National Highway No. 1 and falls within the National Capital Region. Notifications were issued under Sections 4 and 6 of the Act in August, 1997 and July, 1998 respectively for acquiring over 323 acres of land for development of Phase IV of Industrial Estate, Kundli. Even award for the same was announced on 15.12.1998. While acquiring the aforementioned land, very small tract of land (about 4 kanals) which is subject matter of dispute in the present petition was inadvertently left out. This land was otherwise part of the land acquired in 1998. On this account, the development work in the area could not be undertaken and continuity of the project was

hampered. It is therefore that the emergency provisions had to be invoked in the present case. The relevant extract of the written statement is as hereunder:

It is submitted that in the above mentioned declared Industrial Policy, the Respondent State has provided for acquisition of about 400 acres of land for developing Phase-IV, Industrial Estate, Kundli.

The notification dated 05.08.1997 u/s 4 of the Land Acquisition Act 1894 (hereinafter referred to as the Act) was issued and thereafter the Notification dated 29.07.1998 u/s 6 of the Act was issued for acquiring the land measuring 323 Acre 4 Kanal 8 Maria of village Kundli, Sersa & Nangal Kalan for development of Phase-IV of industrial Estate, Kundli and the award of the same was announced on 15.12.1998. The true copy of the award dated 15-12-1998 is being annexed herewith as (Annexure R-1).

That while acquiring the land measuring 323 Acre 4 Kanal 8 Maria, the land in dispute of the petitioner was left inadvertently. So, the Notification No. 2/6/4-11B-11-98 dated 15.2.2002 u/s 4 of the "act" read with Clause (c) of Sub Section (2) of Section 17 of the Act was issued and there after vide. Notification No. 2/6/ 4-11B-II 98 dated 19.6.2002 u/s 6 read with Clause (c) of sub Section (2) of Section 17 of the Act, the land measuring 4 Kanal 18 Maria of village Kundli including the land in dispute of the petitioner was acquired. The award of the said land was announced on 25.4.2003. Thus the land in dispute of the petitioner is part of the main land acquired vide award dated 15.12.1998 for development of Phase-IV of Industrial Estate, Kundli.

That the land in dispute of the petitioner was acquired under the emergency provisions of the Act as the development work could not be under taken and the continuity of project was hampered....

2. On going through the aforementioned averments, we are of the opinion that the respondents have invoked the emergency provisions after due application of mind and for a justified reason.

3. Counsel for the petitioner has relied upon judgment of the Hon"ble Supreme Court titled Union of India (UOI) and Others Vs. Mukesh Hans etc., . A reading of the judgment would show that it has been held therein that the record must show application of mind of relevant material for dispensing with the requirement of Section 5A of the Act. In the present case, we are satisfied that there is application of mind and good reasons for invoking the emergency provisions.

4. Apart from the forementioned, it has also been pointed out by the State Government that part of the petitioner's land had been acquired in the earlier acquisition in the Industrial Estate also. The petitioner had filed Civil Writ Petition No. 4761 of 1999 challenging the said acquisition proceedings as well. That writ petition as also Bunch of other connected matters were dismissed by this Court on 8.4.2002 and 25.4.2003. It is further pointed out that land of the petitioners measuring 15 Kanals 3 Marias on which he had constructed building and was

running an existing unit under the name of Kashmir Katha Industries. Private Limited was exempted/released u/s 6 of the Act, as it did not come under the way of planning. For the forementioned reasons as well, we are not inclined to interfere in the exercise of our jurisdiction under Articles 226 and 227 of the Constitution of India.

5. For the reasons aforementioned, the present writ petition is dismissed.