
(2011) 10 P&H CK 0096

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 2027 of 2007 (O and M) and

Makhan Lal

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 05-10-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 48, 5A, 6

Citation : (2011) 10 P&H CK 0096

Hon'ble Judges : M.M. Kumar, Acting C.J.;Gurdev Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, A.C.J.—These petitions filed under Article 226 of the Constitution have challenged the acquisition proceedings initiated by the respondent State of Haryana in pursuance to notifications dated 6.1.2006 and 9.8.2006, issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for brevity, "the Act") respectively, for a public purpose, namely, for the development and utilisation of land for residential/commercial Sector 6-7 adjoining to the proposed 60 Mtrs. wide road at Rewari, in the area of village Gokalgarh H.B. No. 119 and village Rewari H.B. No. 125, Tehsil and District Rewari.

2. The petitioner in CWP No. 2027 of 2007 owns total land measuring 22 Kanals 5 Marlas (300 Sq. Yards) within the Municipal Limit of Rewari City. He is stated to have constructed a house partly upon the land in question more than 2 years earlier to the issuance of notification u/s 4 of the Act. The petitioner has claimed that on 2.2.2006, he had filed objections u/s 5-A of the Act stating that he has constructed a boundary wall around the land and also started full construction of the house. The land is situated in Rewari City near Delhi Road, which is thickly populated area and number of colonies having residential and commercial sites already exists (P-2). It has also been submitted that after filing of the objections, he applied to the Municipal Council Rewari for sanction of the building plans vide

Receipt No. 12, Book No. 407 on 22.3.2006 by depositing a sum of Rs. 42,150/- as security, development charges, map fees, water charges and garbs fees (P-3). On 22.3.2006, the building plans were sanctioned by the Municipal Council, Rewari (P-4). However, without considering the objections, the land of the petitioner has been acquired vide notification dated 9.8.2006 u/s 6 of the Act. On 7.2.2007, the petitioner filed the writ petition.

3. The petitioner in CWP No. 9771 is owner of land measuring 14 Marlas out of total measuring 17 Kanals - 14 Marlas within the Municipal Limit of Rewari. He is stated to have constructed a house consisting of five rooms, kitchen, latrine, bathroom and a veranda, as per site plan dated 13.12.2003 (P-2). All the basic amenities such as electricity, sewerage, water and telephone connection are available there and the petitioner is living in the said house with his family members. He has also claimed to have filed objections u/s 5-A of the Act after issuance of notification u/s 4. But without considering the objections the land in question has been acquired. The writ petition has been filed on 9.2.2007.

4. According to the petitioner(s) the land is situated in Rewari City near Delhi Road, which is thickly populated area and number of colonies having residential and commercial sites already exists (P-2). It is alleged that the land of the influential persons, namely, Heera Lal, Tehsildar, Nand Kishore Rastogi, Press Reporter, Dharambir son of Sheo Lal, Ram Singh son of Maha Singh, Hoshiar Singh son of Mangal Singh, F.C. Dutta and Raghu Yadav, Ex. MLA, having Banquet Hall, have been released from the acquisition. Similarly, the other vacant land belonging to Yadav Samaroh Sthal and Savita Sadan Samaroh Sthal etc. have also been left out from the purview of acquisition. In this manner, the petitioner(s) have been meted with discrimination. It has also been pointed out that while issuing notification u/s 4 of the Act, total land measuring 304.76 acres was proposed to be acquired but at the time of declaration u/s 6 of the Act only 299.466 acres of land has been acquired.

5. In the written statement filed on behalf of respondent Nos. 1 and 3 (in CWP No. 2027 of 2007) it has been stated that the petitioner did not file the objections u/s 5A of the Act. At the time of issuance of notification u/s 4, the petitioner's land was totally vacant. On 7.12.2006, the award was announced and possession of the land free from all encumbrances was handed over to the representative of the Estate Officer, HUDA on the same day. It has also been pointed out that all the provisions of the Act have been meticulously complied with, inasmuch as, the entry of notification u/s 4 was made in the Patwari's Halqa Roznamcha Wakayati vide Rapat No. 344, dated 11.1.2006 and the substance of the notification was also published in two daily news papers, namely, "Daninik Jagaran" (Hindi), dated 10.1.2006 and "National Herald" (English), dated 11.1.2006. The substance of the notification was also pasted on the notice board of Halqua Patwar Khana and Tehsil Office. Munadi was also done through the village Chowkidar by beating of drum in the village and in the vicinity of the land to be acquired. On 9.8.2006, declaration u/s 6 of the Act

was made as per the demarcation plan. The substance of the declaration was also published in two daily news papers, namely, "Hari Bhoomi" (Hindi) and "Indian Express" (English) on 14.8.2006 and 13.8.2006 respectively. The entry of the declaration was made in the Roznamcha Wakayati Halqa vide Rapat No. 1065, dated 23.8.2006. It has also been pointed out that adequate opportunity of hearing has been afforded to such persons who have filed objections u/s 5-A of the Act. Since the petitioners have not filed the objections u/s 5-A, therefore, they have no right to file the instant petitions.

6. After hearing learned counsel for the parties at a considerable length we find that there is no ground made out to accept the contention raised by the petitioners and to quash the acquisition proceedings subject matter of instant petitions. Award in the present case has already been announced on 7.12.2006 before filing of the instant petitions, which were filed on 7.2.2007 and 9.2.2007 respectively. It is well settled that no writ petition would be competent after passing of award because possession of land was taken and the land is deemed to be vested in the State Government free from all encumbrances. In such a situation it is not possible to invoke the provisions of Section 48 of the Act. Reliance in that regard may be placed on the judgments of Hon"ble the Supreme Court rendered in the cases of Star Wire (India) Ltd. Vs. State of Haryana and Others, The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others, ; C. Padma and Others Vs. Dy. Secretary to the Govt. of T.N. and Others, and Swaika Properties Pvt. Ltd. and Another Vs. State of Rajasthan and Others, There is thus, no ground to interfere.

7. In view of above, these petitions fail and the same are dismissed.

8. A photocopy of this order be placed on the file of connected case.