
(2016) 04 P&H CK 0149
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 19475 of 2013

Mohd. Salim and others	Vs	APPELLANT
State of Punjab and others		RESPONDENT

Date of Decision : 12-04-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2016) 3 PLR 575

Hon'ble Judges : Mr. Ajay Kumar Mittal and Mrs. Raj Rahul Garg, JJ.

Bench : Division Bench

Advocate : Mr. Ghulam Nabi Malik, Advocate, for the Appellant; Ms. Sudeepti Sharma, DAG, Punjab, for the Respondent

Final Decision : Allowed

Judgement

Mr. Ajay Kumar Mittal, J.—The petitioners pray for quashing the order dated 16.7.2013, Annexure P.6 passed by respondent No. 5 dismissing the objections filed by them and notifications dated 19.10.2012 and 17.4.2013 issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act"), Annexures P.2 and P.3 respectively.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. In the year 1987, the State of Punjab acquired land measuring 25 kanals 7 marlas situated at Malerkotla, District Sangrur owned by the petitioners for a public purpose namely to set up an industrial unit. However, later on, the said property was sold to private builders due to which the petitioners filed CWP Nos. 3475 and 4684 of 2012 on the ground that they had been cheated by the Government and private builders as their agricultural land was acquired for the purpose of setting up an industrial unit. However, the same was being used by the private builders for setting up residential colony. The said petitions were disposed of by this court vide order dated 9.11.2012, Annexure P.1 with a direction to the respondents to use the said property for industrial purpose only or the same be restored back to the petitioners. After acquiring 25

kanals land of the petitioners in the year 1987 for setting up industrial unit, another chunk of 21 bighas of land of the petitioners was also acquired by the Government for construction of the lassara drain and thereafter another 2 bighas 3 biswas land of the petitioners was acquired by the respondents for the purpose of sewerage water disposal. Notification under section 4 of the Act was issued on 19.10.2012, Annexure P.2 followed by notification under section 6 on 17.4.2013, Annexure P.3. According to the petitioners, neither the notifications were published in newspapers nor any notice was issued to them. The petitioners were not aware of the said notifications. For the first time, respondent No. 5 issued notice dated 29.4.2013, Annexure P.4 to the petitioners whereby they were called upon to file objections regarding acquisition of their land within one month of the issuance of the notice. When the petitioners came to know about the acquisition proceedings being carried out by the respondents regarding their land, they obtained the copies of the notifications from the respondents and filed objections before respondent No. 5 on 28.5.2013, Annexure P.5. The petitioners pleaded that their land was already acquired on three different occasions by the Government but the land was never used for the purpose for which it was acquired. It was further submitted that no notice as required under the provisions of section 4 of the Act was issued to the petitioners. Respondent No. 5 passed the impugned order dated 16.7.2013, Annexure P.6 declining the objections filed by the petitioners on the ground that they had not filed the same in pursuance to the notifications. According to the petitioners, their land is adjacent to the Government land which is lying vacant and if the land in question is acquired then there would be no passage to the remaining land of the petitioners. Hence the instant writ petition.

3. Reply in the form of affidavit of Executive engineer, Water Supply and Sewerage Division, Sangrur on behalf of respondent No. 2 has been filed wherein it has been inter alia stated that the land of the petitioners was acquired by the State Government for a public purpose namely "providing sewerage and sewage treatment plant at Malerkotla. This particular land was selected for the said purpose as the same was located adjoining the main pumping station already established. The work has already been allotted to the contractor. In reply to para 5 of the writ petition, it has been stated that notice through publication in Rozana Jag Bani was published on 24.4.2013. Similarly, after publication of declaration under section 6 of the Act, notice under Section 9(1) of the Act was duly served on the land owners vide Annexure P.4. The land owners had filed their objections on 31.5.2013 which were rejected vide order Annexure P.6. Notice through Muniyadi under section 4 of the Act was duly served to the land owners and their objections were rejected. On these premises, prayer for dismissal of the petition has been made.

4. We have heard learned counsel for the parties.

5. Admittedly, land of the petitioners was acquired vide notification under section 4 of the Act dated 19.10.2012, Annexure P.2 for a public purpose namely

"providing sewerage and sewerage treatment plant at Malerkotla, District Sangrur." Notification under section 6 of the Act was issued on 17.4.2012, Annexure P.3. It has been specifically stated in para 5 of the writ petition by the petitioners that neither the notifications were published in any newspaper nor any notice was issued to them and thus they were not aware of the acquisition proceedings. The reply filed by the respondents in the written statement to para 5 of the writ petition reads thus:-

"5. That the averments made in para number 5 of the Civil Writ petition are not correct. Muniyadi of notification under section 4 of the Land Acquisition Act, 1894, was made on 25.11.2012 and report No.247 to that effect was made in revenue record on 25.11.2012. As per this report, concerned land owners were duly informed. A copy of the report is annexed as Annexure R. 2/1. Notice through publication in Rozana Jag Bani was also published on 24.4.2013, a translated copy of the publication from Punjabi to English is at Annexure R. 2/2. Similarly after publication of Declaration under section 6 of the Land Acquisition Act, 1894 notice under section 9(1) was duly served on the land owners vide Annexure P.4 and the land owners had filed their objections also on 31.5.2013 vide Annexure P.5 and the same were rejected vide order Annexure P.6. When notice through Muniyadi under section 4 was duly served to the land owners and their objections were rejected so they cannot be allowed to raise such frivolous objections by pleading disputed facts."

As per the provisions of section 4 of the Act, publication of the notification should be in at least two daily newspapers having circulation in the concerned locality out of which one should be in regional language. In the present case, this requirement has not been fulfilled by the respondent-authorities. Further, it has been admitted by the State counsel that no publication of the notification under section 4 of the Act was made in any newspaper. On this ground alone, the impugned notifications are liable to be quashed.

6. In view of the above, the writ petition is allowed. The impugned notifications under sections 4 and 6 of the Act dated 19.10.2012 and 17.4.2013, Annexures P.2 and P.3 are quashed.