

(1996) 09 P&H CK 0141
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2925 of 1996

Mukhtiar Singh and Others	Vs	APPELLANT
State of Haryana and Another		RESPONDENT

Date of Decision : 16-09-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5A

Citation : (1997) 115 PLR 115 : (1997) 1 RCR(Civil) 145

Hon'ble Judges : Sat Pal, J;M.S. Liberhan, J

Bench : Division Bench

Advocate : Ashwani Talwar, for the Appellant; Hari Pal Verma, DAG, for the Respondent

Final Decision : Dismissed

Judgement

Sat Pal, J.—By this judgment, we are disposing of five writ petitions bearing CWP Nos. 2925, 2926, 2927, 2999 and 3001 of 1994 as the points of law raised in all these petitions are identical. For deciding these cases, we have taken up the facts from CWP No. 2925 of 1996.

2. Briefly stated the facts of the case are that the respondents had issued notification dated 2nd March, 1993 (Annexure P.2) u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act) for acquisition of 413.69 acres of land for development of Sector 18 at Panipat for residential, industrial and commercial purposes. The petitioners filed their objections u/s 5-A of the Act and after considering the said objections filed by the petitioners, the notification dt. 1st March, 1994 (Annexure P-4) was issued u/s 6 of the Act. On 7th February, 1996, notice (Annexure P-6), u/s 9 of the Act was issued and the award was announced on 28th February, 1996.

3. Mr. Ashwani Talwar, Learned counsel appearing on behalf of the petitioner submitted that the petitioners have been discriminated inasmuch as the land of one person who was similarly situated has been released by the respondents

Whereas the lands of the petitioners have not been released although the petitioners are also similarly situated and the period of constructions of that person and the petitioners was on the same footing. In support of his submission. The learned counsel placed reliance on two judgments rendered by two Division Benches of this Court in *Devinder Kumar Vs. State of Punjab and Others*, and *Shankar and Ors. v. State of Haryana* 1996 PLJ 263.

4. The learned counsel further submitted that the land measuring one bigha two biswas had been released to the petitioners from acquisition by the respondents in C.W.P. No. 2925 of 1996 and land measuring 0.8 Biswas had been released to the petitioners from the acquisition by the respondents in CWP No. 2926 of ? 1996, but the respondents had not consulted the petitioners while deciding the portion of land to be released. He, therefore, contended that the land which was being left out of acquisition should be decided by the respondents in consultation with the petitioners in order to enable them to have separate dwelling units of their choice.

5. Mr. Hari Pal Verma, learned counsel appearing on behalf of the State, submitted that the points raised on behalf of the petitioners are fully covered by the judgment dated 4th December, 1992, rendered by a Division Bench of this Court in CWP No. 4958, 4961 and 6724 of 1992. He submitted, that in that judgment, it was held that if the State considered appropriate to release some land from acquisition where in fact construction existed, this could be decided in individual cases and there would be no question of discrimination to give cause to others to claim exemption from acquisition. He, therefore, contended that the writ petitions were without any merit and should be dismissed.

6. We have given our thoughtful consideration to the submissions made by the learned counsel for the parties and have perused the records.

7. We do not find any merit in the contention urged by the learned counsel for the petitioners regarding discrimination on the ground that since the land of one individual which was similarly situated had been released whereas the land of all the petitioners had not been released, in view of the law laid down by the Hon"ble Supreme Court in a recent judgment in *Yadu Nandan Garg Vs. State of Rajasthan and Others*, . In this judgment, it was observed as under:

"It is true, for reasons best known to the authorities, that Anand Nursery had the benefit of the exemption. The wrong exemption under wrong action taken by the authorities will not clothe others to get the same benefit nor can Article 14 be pressed into service on the ground of invidious discrimination."

It may also be relevant to point out here that the constructed area along with the proportionate a vacant area has already been released to the petitioners in CWP Nos. 2925 of 1996 and 2926 of 1996 from the acquisition, after taking into consideration the objections filed by them u/s 5-A of the Act.

8. We also do not find any merit in the second contention of the learned counsel

for the petitioners that the petitioners in CWP No. 29256 and 29296 of 1996 should have been consulted by the respondents before taking the decision with regard to the released portion of land to them. From the written statement, filed by the respondents, we find that the constructed area along with the proportionate vacant area was released from the acquisition by the respondents after taking into consideration the objections filed by the petitioners u/s 5A of the Act as well as the report made by the Joint Site Inspection Committee and thereafter the award in respect of the remaining land was announced on 28th February, 1996. It cannot, therefore, be said that the decision of the respondents with regard to the release of the land is arbitrary.

9. In view of the above discussions, we do not find any merit in all these writ petitions and accordingly all the writ petitions are dismissed. The parties are, however, left to bear their own costs.