
(2004) 03 P&H CK 0089
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5379 of 1990

Pardeep Singh and others	Vs	APPELLANT
State of Haryana and others		RESPONDENT

Date of Decision : 31-03-2004

Acts Referred:

Citation : (2004) 3 LJR 785 : (2004) 3 RCR(Civil) 156

Hon'ble Judges : M.M.Kumar, J

Advocate : Mr. I.S. Balhara, Advocate.Mr. B.B. Gupta, Addl. Advocate General, Haryana. Mr. Ranjit Saini, Advocate., Advocates for appearing Parties

Judgement

M.M. Kumar, J. (Oral)

1. By this order two writ petitions namely, C.W.P. Nos. 6002 and 5379 of 1990 are being disposed of as common question of fact and law is involved. Challenged in these petitions filed under Article 226 of the Constitution is to the notices dated 22.2.1990 (Annexure P.3 to P.5). Respondent No. 1 issued notification under Section 4 of the Act expressing his intention to acquire the specified land for public purpose namely, development and utilization of the same for residential and commercial area for Sector 23, Sonapat. The specific Khasra numbers in the notification issued under Section 4 of the Land Acquisition Act, 1894 (for brevity, 'the Act') are as under :

xx xx xx xx xx xx

District : Sonapat

Tehsil : Sonapat

Village Locality/H.B. No. Kalupur/205

Khasra Nos :

1, 2, 1157/3, 1158/3, 4, 5, 23 min, 33, 34, 35, 36, 37, 38, 39, 1726/46, 47, 1728/48, 1729/48, 1730/48, 1731/49, 1732/49, 1733/40, 50, 51, 52, 53, 54,

55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 954/71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 102, 101, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 1095/126, 1096/126, 127.

Joint Secretary to Govt.

Haryana, Urban Estate

Deptt."

2. The petitioners are owners in possession of Khasra Nos. 1006/124/1, 1006/124/5/1, 1006/124/6, 1094/ 125/1, 1094/125/9 and 125/11 measuring 0 K 11 M; 0 K 9 M; 0K4M and 14 Biswas respectively. It was further averred that the aforementioned Khasra Nos. were never incorporated in the notification issued under Section 4 of the Act (Annexure P.1) nor in the notification issued under Section 6 of the Act (Annexure P.2). However, respondent No. 3, namely Land Acquisition Collector, Gurgaon, has issued notices to the petitioners under Section 9 of the Act directing them to attend his office for claiming their rights and compensation in respect of the Khasra numbers mentioned in this para above. The case of the petitioners is that since the land belonging to them comprised part of notifications issued under Sections 4 and 6 of the Act, no notice under Section 9 (Annexures P.3 to P.5) could be issued to them.

3. In the written statement filed by the respondent State it has been pointed out that it is sufficient to mention khasra Nos. 124 and 125 without mentioning any further details. In para 6 of the written statement it has been asserted that Khasra Nos. belonging to the petitioners were part and parcel of khasra Nos. 124 and 125. On the aforementioned basis it has been further asserted that the petitioner Nos. 1 to 3 have filed objections under Section 5A of the Act and no prejudice has been caused to them. However, it is admitted that petitioner No. 4 Prem Singh did not file any objection.

4. Mr. I.S. Balhara, learned counsel for the petitioners has argued that in the absence of specific mention of Khasra numbers of the petitioners, the notification under Section 4 cannot be constructed to mean that the land of the petitioners has been acquired under Sections 4 and 6 of the Act. The learned counsel has argued that big Khasra or rectangle number 954 has been mentioned in the notification under section 4 with min. Nos. 71, 72, 73, 74, 75, 76, 77 and 78, 124, 125, 1094/126, and thereafter big Khasra or rectangle Nos. 1095/126, 1096/126, 127 have been mentioned. According to the learned counsel, a reading by any prudent person of the notification would not reveal that Khasra Nos. 1006/124 and 1095/125, or 1094/11, were intended to be acquired. In the absence of specific mention of the Khasra numbers of the petitioners, the filing of objections by petitioners 1 to 3 has also been rendered meaningless as there was no notification under sections 4 and 6 of the Act. Moreover, petitioner No. 4 Prem Singh did not file any objection.

5. Mr. B.B. Gupta, and Mr. Ranjit Saini, learned counsel for the respondents have argued that it was sufficient for the respondents to mention Khasra Nos. 124 and 125 without mentioning the Min numbers. According to the learned counsel, petitioners No. 1 to 3 have rightly understood the notification issued under Section 4 and have filed objections. In support of their submission, reliance has been placed on a judgment of this Court in the case of Nirmal Singh v. State of Punjab, 1998(4) RCR(Civil) 190.

6. After hearing the learned counsel for the parties, I am of the considered view that this petition deserve to be allowed. A persual of Section 4 of the Act shows that the appropriate Government could acquire the land in any locality if it is needed or is likely to be needed for any public purpose or company a notification to that effect has to be published. Similar is the provision with regard to filing of objection under Section 5A of the Act. Only those persons whose land has been notified under Section 4 are entitled to file objections. It is thereafter that a declaration of intended acquisition is issued under Section 6. However, in the instant case the land belonging to the petitioners comprised in big khasra or rectangle number 1006 alongwith min. numbers 124, 125 and 1094/124 and 125 and 1094/125/1 have not been mentioned in the notification under Section 4 or in subsequent notification under Section 6 of the Act. In the absence of specific acquisition of these Khasra numbers, notification issued under Section 4 (Annexure P.1) cannot be understood to mean that the land belonging to the petitioners has been acquired. The filing of objections by the petitioners under Section 5A of the Act would be futile exercise as those objections can easily be styled as objections by a stranger to the acquisition. Moreover, petitioner No. 4 Prem Singh has not filed objections to this land.

7. The judgment in the case of Nirmal Singh (supra) on which reliance has been placed by the counsel for the respondents does not help them because in that case it was found that there was no omission of referring the land of the petitioner therein and also that if in rectangle number no reference to Khasra number of the said rectangle has been mentioned it would hardly make any difference. However, in the instant case, khasra numbers with rectangle No. mentioned are from 194/71 which goes upto 125. There is no mention of khasra No. 1094/125. Therefore the omission is apparent. It was not present in Nirmal Singh's case (supra). Therefore, no reliance could be placed on the afore mentioned judgment.

In view of the above, the writ petitions are allowed. Notices (Annexures P.3, P.4 and P.5) issued to the petitioners under Section 9 of the Act are quashed. It is declared that the land belonging to the petitioners is not covered by notifications issued under Sections 4 and 6 (Annexure P.1 and P.2).

The writ petitions are allowed in the above terms.