
(1996) 07 P&H CK 0119

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1822 of 1995

Pritam Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 22-07-1996

Acts Referred:

Citation : (1997) 1 CurLJ 587 : (1997) 1 RCR(Civil) 238

Hon'ble Judges : T.H.B.Chalapathi, J

Advocate : Mr. D.S. Dhillon, DAG Punjab., Mr. S.S. Brar, Advocate, Mr. D.S. Brar, Advocate, Advocates for appearing Parties

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed seeking a writ of certiorari to quash the Notifications dated 28th July, 1992 and 29th July, 1993 issued under the Land Acquisition Act for acquisition of the land measuring 31 acres situated in Mallanwala village in Ferozepur District.

2. The petitioners were the owners of land measuring 31 acres in Mallaanwala village which is sought to be acquired for the purpose of setting up Market yard. Accordingly, a notification under Section 4 of the Land Acquisition Act was issued on 28.7.1992. Objections were called for the acquisition of land. Further a notification under Section 6 of the Land Acquisition Act was issued on 29.7.1993. The petitioners in this writ petition are challenging the said notifications on the ground that the Notification under Section 4 of the Land Acquisition Act (hereinafter called the 'Act') was not published in accordance with the provisions of the Act and there was no publication in the locality and the site is not easily accessible as one has to cross the railway station to reach this site and there is a Power House and a Government Senior Secondary School near the site. Therefore, the site is not suitable for the purpose for which it is sought to be acquired and the land being orchard it cannot be acquired. Further the land adjoins the railway crossing. As most of the passenger and goods trains pass through the said railway crossing, it will not be easy to access the site. It is also contended by the counsel for the petitioners that the land being fertile, it cannot

be acquired for nonagricultural purposes.

3. In the written statement filed by respondents No. 1 and 2, it is averred that petitioners No. 2 and 4 to 7 filed their objections under Section 5 of the Land Acquisition Act and the said objections were considered by the competent authority. It is further averred that the land comprised in some of Khasra Nos. mentioned in the writ petition, has not been acquired as the same was denotified by the Government. It is also averred that there was no discrimination and mala fide in acquiring the land. It is further stated that the site was selected by an Expert Committee after examining all aspects of the matter for setting up a New Mandi Township at Mallanwala. It is further averred that the notification was duly published in the locality and also in the newspapers. According to the respondents, the land in question has been selected by the Siting Board, an expert authority in the matter after inspection of the site and on examination of all pros and cons. It is further asserted that the selection of the site has been approved by the New Mandi Township Control Board and it is the best site for setting up the New Mandi Township. The other averments in the writ petition are denied.

4. Respondents No. 3 and 5 filed a separate written statement in which they have stated that the site has been selected after taking into consideration the hardships of the local residents and the fact that the site is near the railway station is one of the factors which has been taken into consideration for selecting the site as movement of the foodgrains from the Mandi would be handled more effectively for despatching to other stations. It is further averred that the Mandi operates between 10 A.M. to 3 P.M. and only 35 trains pass through the railway crossing during that time and the gate would be closed only 25 minutes and, therefore, the fact that the site is near the railway crossing does not affect the working of the market in any manner. It is also averred that the demand to establish the market is a long standing one and the establishment of the market yard is intended to uplift the farmers and people of the area. It is further average that the land in question is most suitable for establishing the market yard.

5. I heard the learned counsel for the parties and perused the record.

6. The record shows that there was due publication of the notification in the locality and there is no violation of any provision of the Act. There was due compliance of the procedure. Some of the petitioners also filed objections under Section 5A of the Act for this acquisition. The record further shows that the objections filed by the petitioners were considered by the competent authority and were rejected. The fact that the petitioners are small landowners is no ground to set aside the acquisition proceedings. The contention of the learned Counsel for the petitioners that there was discrimination in acquiring the lands as the authorities abandoned the earlier acquisition proceedings in 1983 is without any substance. It is on the record that earlier land acquisition proceedings were given up as the land was not suitable. The site in question was inspected by a Siting Board which consisted of experts and who after visiting the site,

recommended the site for acquisition to establish the market. The fact that it is near the railway station or near the railway crossing does not make the acquisition illegal. Further, as stated in the written statement filed by the respondents, it is desirable to establish the marketyard near the railway station so that there could be easy and speedy transport facilities. The contention of the learned Counsel for the petitioners that there is discrimination in acquiring the lands does not merit any consideration and there is no factual foundation for such an argument.

7. Notifications under Sections 4 and 6 of the Land Acquisition Act were issued in the year 1992 and 1993 and the writ petition was filed in the year 1995 i.e. about two and a half years after the publication of the notifications. Thus, there is also a delay in approaching the Court to quash the acquisition proceedings.

On a consideration of the facts and circumstances of the case, I am of the opinion that the acquisition of the land of the petitioners does not suffer from any infirmity and there are no grounds to quash the same. The writ petition, therefore, fails and is, accordingly, dismissed. However, there will be no order as to costs.