
(2008) 01 P&H CK 0140
In the Punjab And Haryana At Chandigarh

Rajesh Kaushik

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 07-01-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2008) 01 P&H CK 0140

Hon'ble Judges : Vijender Jain, C.J; Kanwaljit Singh Ahluwalia, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Vijender Jain, C.J.—The present writ petition is the fourth attempt by the petitioner to approach this Court by way of filing writ petitions. Government of Haryana issued a notification u/s 4 of the Land Acquisition Act, 1894 proposing to acquire 233.09 acres of land in Village Devi Nagar. We need not dwell on the facts regarding acquisition and award given regarding compensation. Claim of the petitioner is that as per the policy of the Haryana Government, he is entitled to allotment of a plot being an oustee. In the petitions, earlier filed and in the present petition, petitioner is raising his claim on the basis of the written statement filed to his first writ petition i.e CWP No. 9426 of 2000 titled `Rajesh Kumar v. State of Haryana and Ors.", wherein in reply to para No. 2 of the writ petition, it was admitted that the petitioner is the owner of one kanal land since 1983. That writ petition was disposed of by remitting the matter to competent authority for a fresh decision after hearing the petitioner.

2. Thereafter, petitioner filed another writ petition, bearing CWP No. 6936 of 2003 titled, `Rajesh Kaushik v. State of Haryana and Ors.", which according to the petitioner was dismissed as withdrawn with liberty to file a fresh one. However, the order of withdrawal has not been placed on the record of the present petition.

3. Thereafter, the petitioner again filed CWP No. 10093 of 2004 and the same

was allowed on September 25, 2006 by directing the Estate Officer, HUDA, Panchkula to reconsider the claim of the petitioner for allotment of the plot under the oustees quota. Vide Annexure P-23, claim of the petitioner was considered by the Estate Officer, HUDA, Panchkula and he found the petitioner disentitled for the plot on two counts. Firstly, on the basis of the revenue record and the award, Estate Officer came to the conclusion that the petitioner is not owner of the acquired land of Khasra No. 376 as he has only constructed factory and the boundary wall over one kanal and Land Acquisition Collector has found him only entitled to the compensation regarding building and super structure raised thereupon. Estate Officer further found that as per the revenue record, Sh. Om Parkash, Raghbir Chand, Balbir Chand sons of Swarn son of Matu Ram are owners to the extent of half share and Bachna, Rattna, Sat Pal, Yog Raj sons of Inder residents of Village are the owners of remaining half share of land in dispute. We find in this manner, averment made in written statement by the respondents to the first writ petition preferred by the petitioner i.e CWP No. 9426 of 2000 stood repudiated. Secondly, in the order it has been stated by the Estate Officer, HUDA, Panchkula that the benefit under the oustees policy shall be restricted to one plot according to the size of the holding irrespective of the number of co-sharers.

4. During the course of arguments, we called upon counsel for the petitioner to furnish any document to show that in the revenue record, he is the owner of the one kanal plot in order to corroborate reliance placed by the petitioner on the averment made by respondents in written statement to first civil writ petition filed by the petitioner i.e CWP No. 9426 of 2000. Unable to show anything from the revenue record counsel for the petitioner has raised another argument that in case of commercial property, even if building and super structure raised by the petitioner has been acquired, petitioner will fall into the category of oustee and thus he will be entitled to a benefit which is reserved for the oustees of land.

5. We are afraid that the petitioner cannot fall within the definition of oustee to claim allotment of the plot especially when, coowners of the land whose names are mentioned in the speaking order Annexure P-20, are entitled to claim plot under the oustees policy. There is no dispute that as per the oustee policy, benefit is restricted to one plot according to the size of the holding irrespective of the number of co-sharers. Reasons given in Annexure P-23, rejecting the claim of the petitioner are just and acceptable, therefore, call for no interference. Hence, present writ petition, being devoid of merit, is dismissed.