
(2001) 05 P&H CK 0096
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9426 of 2000

Rajesh Kaushik

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 14-05-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2002) 1 RCR(Civil) 644

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Jagmohan Singh Chaudhary and Pankaj Sharma, for the Appellant;
Palika Monga, A.A.D. and A. Mohunta, for the HUDA, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—On August 31, 1987, the State of Haryana issued a notification under Section 4 of the Land Acquisition Act, 1894 for developing Sector 3, Urban Estate, Panchkula. On August 26, 1988, the notification u/s 6 was issued. On March 27, 1989, the award was given. The petitioner who owned a one Kanal plot and had built a small industrial unit thereon lost his land. He applied for the allotment of a plot out of the oustees quota. Vide letter dated August 5, 1996, the Estate Officer asked for the comments of the Land Acquisition Officer. Vide endorsement dated August 21, 1996, a copy of which is at Annexure P-6, the Land Acquisition Officer forwarded the petitioner's case for sympathetic consideration. Vide order dated May 27, 1999, the petitioner's request was declined with the following observations :

"If it is intimated that record submitted by you for allotment of plot out of oustees quota has been considered by the office as per policy of the department and it has been found that your land was acquired vide notification dated 2.7.1985 and there was no such policy to allot plot in this category at that time,"

2. A copy of this order is at Annexure P-8 with the writ petition. Aggrieved by

this order, the petitioner has approached this Court through the present writ petitioner. He alleges that the order is based on a wrong assumption of facts. Thus, it is vitiated. He prays that the order be quashed and that the authority be directed to allot a plot.

3. A written statement on behalf of respondents No.1 and 3 has been filed. It is stated that "as per award statement, house alongwith 4 walls has been acquired... .. the office of respondent". It has been further admitted in para 12 of the written statement that notification u/s 4 was issued on August 31, 1987 and that the notification u/s 6 was dated August 26, 1988.

4. A separate written statement has been filed on behalf of the respondents by the Estate Officer, HUDA. It has been averred that the petitioner's land was acquired on August 31, 1987. The policy for accommodating the oustees had come into force on September 10, 1987. Thus, the petitioner is not entitled to the allotment of a plot.

5. Counsel for the parties have been heard.

6. Admittedly, the notification u/s 4 was issued on August 31, 1987. The notification u/s 6 was issued on August 26, 1988. The policy for accommodating the oustees was issued on September 10, 1987. It is, thus, clear that the policy existed before the petitioner's land was actually acquired by the notification u/s 6. The award was admittedly given on March 27, 1989.

7. The above sequence of events clearly shows that the petitioner's application was rejected on wrong assumption of facts. It was wrongly observed that the petitioner's land was acquired vide notification dated July 2, 1985. This being the factual position, the impugned order is liable to be set aside on the ground that it is based on a wrong assumption of facts.

8. No other point has been raised.

9. In view of the above, it is clear that the impugned order is based on a wrong assumption of facts. Consequently, it is vitiated. We set aside this order and remit the matter to the competent authority for a fresh decision after hearing the petitioner. 10. The writ petition is, accordingly, disposed of. No costs.