
(2016) 03 P&H CK 0190
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 12670 of 2015.

Rattan Singh and Others	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 01-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 11, 4, 5A, 6

Citation : (2016) 3 RCRCivil 353

Hon'ble Judges : Ajay Kumar Mittal;Raj Rahul Garg, JJ.

Bench : Division Bench

Advocate : N.D. Achint, Advocate, for the Appellant; Ms. Palika Monga, DAG, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, J. - Prayer in this petition is for quashing the notifications dated 10.1.2011 and 8.4.2011 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act") and the award dated 8.1.2013, Annexures P.2, 4 and 6 respectively. Further prayer has been made for a direction to the respondents not to dispossess the petitioners from their land.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners were the co-owners of the land measuring 6 kanals comprising Rectangle No.86, Killa No.20/2 situated in Village Dharuhera, Tehsil and District Rewari. Respondent No.2 issued notification under section 4 of the Act on 10.1.2011, Annexure P.2 proposing to acquire the land of the petitioners for a public purpose for construction of Boosting Station of No.1 in Dharuhera, Tehsil and District Rewari. According to the petitioners, the notification was to be published in the Village through Revenue Patwari within a reasonable time on 10.1.2011 but the respondents did not follow the mandatory provisions of Section 4(1) of the Act. The petitioners were required to be afforded a period of 30 days for raising objections under Section 5A of the Act.

The respondents instead issued notification under section 6 of the Act on 8.4.2011. Thereafter, award under section 11 of the Act was passed on 8.1.2013 and in pursuance thereto, the mutation was sanctioned in favour of respondent No.3 on 24.12.2014. Hence the instant writ petition by the petitioners.

3. In the written statement filed by the respondents, it has been inter alia stated that in order to ensure adequate supply of drinking water to the residents of Dharuhera Town and nearby areas, the respondents proposed to acquire the land for construction of boosting station for the benefit and in the interest of public at large. It has been further stated that the acquisition proceedings have already been completed after following due procedure, compensation has been deposited with the Land Acquisition officer and possession has also been taken. On these premises, prayer for dismissal of the writ petition has been made.

4. We have heard learned counsel for the parties.

5. Admittedly, the land of the petitioners was acquired in the year 2011 for a public purpose of construction of Boosting Station to ensure adequate supply of drinking water to the residents of Dharuhera town and nearby areas. No objections were filed by the petitioners under section 5A of the Act in spite of opportunity. The entire acquisition proceedings were completed in accordance with the provisions of the Act. The award was passed on 8.1.2013. Challenge to acquisition proceedings after the announcement of the award has been held to be not maintainable by a Division Bench of this Court in *Des Raj Chela Satguru Kirpa Nand Ji v. State of Haryana and others*, 2009(1) PLR 771 after following various pronouncements of the Apex court. It was held as under:-

"3. After hearing learned counsel for the parties at a considerable length we are of the considered view that by a catena of judgments, Hon'ble the Supreme Court has now held that a writ petition after announcement of award is not maintainable to challenge acquisition proceedings. In that regard reliance may be placed on the judgments of Hon'ble the Supreme Court rendered in the cases of *Star Wire (India) Ltd. v. State of Haryana*, (1996) 11 SCC 698; *Municipal Council Ahmednagar v. Shah Hyder Beig*, (2000) 2 SCC 48; *C. Padma v. Dy. Secretary to the Government of Tamil Nadu*, (1997) 2 SCC 627; and *M/s Swaika Properties Pvt. Ltd. v. State of Rajasthan*, JT 2008 (2) SC 280...."

6. Further, Section 16 of the Act lays down that once the Collector has made an award under Section 11 of the Act, he is entitled to take possession of the acquired land. On taking actual physical possession, the acquired land vests absolutely in the Government free from all encumbrances. In the present case, the possession has already been taken from the petitioners by the Government. A Division Bench of this Court in CWP No.1408 of 2013 (*Rajinder Singh and others v. The State of Punjab etc.*) decided on 24.1.2013 to which one of us (Ajay Kumar Mittal,J.) was a member, while dealing with identical issue relating to release of land with respect to provisions of Sections 16 and 48 of the Act, after relying upon judgment of the Apex Court in *Govt. of A.P. and another v.*

Syed Akbar (2005) 1 SCC 558, recorded as under:-

"6.....Under the provisions of Section 16 and 48 of the Act, once the award is passed and possession is taken, the land deems to vest in the Government and it cannot be released. The law on the said issue also stands settled by this Court as well as by the Hon"ble Apex Court...."

7. Still further, the award having been announced on 8.1.2013, the petitioners have approached this Court in the year 2015 after the lapse of more than two years. A claim is sought to be raked up by way of present petition which we are not inclined to entertain on account of delay and laches as well in the facts and circumstances as noticed herein above.

8. In view of the above, we do not find any ground to interfere with the impugned notifications and the award. Consequently, finding no merit in the petition, the same is hereby dismissed.