
(2011) 03 P&H CK 0554
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 3611 of 1990

Roopwati and Others

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 17-03-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5A, 6

Citation : (2011) 03 P&H CK 0554

Hon'ble Judges : Rakesh Kumar Garg, J; Jasbir Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Garg, J.—This judgment shall dispose of 4 writ petitions i.e. CWP No. 3609, 3610, 3758, 3611 of 1990 as prayer to quash the proceedings to acquire the land of the Petitioners has been made on similar grounds. For the sake of convenience, the facts are being taken from CWP No. 3611 of 1990.

2. As per the averments made, Respondent No. 1 issued notification dated 16.12.1988 u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act") whereby land measuring 666.65 acres belonging to villages Khandsa, Kadipur and Naharpur, Tehsil and District Gurgaon was notified for a public purpose i.e. for the development and utilization of land as Industrial Area (Sector 37 at Gurgaon) and notification u/s 6 of the Act was made on 14.12.1989 whereby the State Government decided to acquire 461.50 acres of land belonging to the aforesaid villages.

3. The challenge to the acquisition has been made on the ground that the land of the Petitioners which comprises in Khasra No. 550 situated within the revenue estate of village Khandsa, Tehsil and District Gurgaon has been acquired in spite of the fact that the house of the Petitioner was constructed on the land in dispute much prior to the issuance of notification u/s 4 of the Act. It is also the case of the Petitioners that objections u/s 5-A of the Act mentioning that the Petitioners

have built the constructed houses were also filed. However, without deciding the objections and granting any opportunity of hearing, notification u/s 6 of the Act was issued acquiring the land. It was further pleaded that the Petitioners were discriminated as vacant land comprising courtyard of the house of the Petitioners had been included in the notification issued u/s 6 of the Act whereas land of other persons owning Khasra Nos.541, 542, 543, 684, 685 and 689 were altogether excluded from acquisition although there was no construction on the major portion of these khasra numbers and thus, the acquisition proceedings were liable to be set aside.

4. However, in the written statement filed on behalf of the Land Acquisition Collector, Urban Estates, Haryana, Gurgaon, it was averred that CWP Nos. 8070 of 1990, 2730 of 1991, 2676 of 1991 and 12361 of 1990 challenging the aforesaid notifications and the award, were dismissed. It was further averred that opportunity of hearing was granted to the Petitioners in the objections filed by them u/s 5-A of the Act and at the time of hearing, Sh. Budh Singh-Petitioner No. 5 was present on behalf of the Petitioners. It was further submitted in the reply that there was no construction on the land of the Petitioners except C-Class room measuring 10"×10". It was further stated in the written statement that there was no discrimination vis-a-vis the Petitioners as the land bearing khasra No. 541, 542, 543, 684 and 685 and 689 were left out of the acquisition as there was construction over the same before issuance of notification u/s 4 of the Act and the averments made in this regard were false. It was further prayed that acquisition was made in accordance with law and the writ petitions were liable to be dismissed.

5. It is also relevant to mention that no objection u/s 5-A of the Land Acquisition Act were filed by the Petitioners in CWP Nos.3609 and 3610 of 1990 and it is also a matter of record that in CWP No. 3758 of 1990, construction portion of the Petitioners was not acquired. All these writ petitions were filed after passing of the award.

We have heard learned Counsel for the parties.

It is useful to refer to the averments made in para 11 of the writ petition which reads as follows:

That Respondent No. 1 has discriminated against the Petitioners as the vacant land comprising court-yard of the house of the Petitioners has been included in the notification issued u/s 6 of the Act whereas the lands of other persons owning Khasra No. 541, 542, 543, 684, 685 and 689 have been altogether excluded from acquisition although there is no construction on the major portion of the lands of these khasra numbers.

It is also necessary to refer to para No. 2 of the preliminary objections of the written statement and para Nos.2 and 11, on merits, of the written statement which read as follows:

Para No. 2 of Preliminary objections:

That the Petitioners have not come to the Hon"ble Court with clean hands at all. The Petitioners have alleged in para No. 6-A of the Civil Writ Petition that no hearing was granted for the objections filed u/s 5-A of the Land Acquisition Act. Fact is that, full opportunity of hearing was granted to the Petitioners for the objections filed by them u/s 5-A of the Land Acquisition Act. At the time of hearing, Sh. Budh Singh-Petitioner No. 5 was present on behalf of the Petitioners and he put his signature in Hindi in token of his presence. He was heard in length and the report was submitted to the competent Authority fully in accordance with law. The land acquisition proceedings are fully in accordance with law. The allegations regarding the objections u/s 5-A of the Land Acquisition Act are thus totally false and concocted.

Paras No. 2 and 11 of written statement on merits:

That in reply to para No. 2 of the Civil Writ Petition, it is submitted that the Petitioners are the owners in the land bearing khasra No. 550 village Khandsa, Teh. & District Gurgaon as per jamabandi of the year 1987-88. The land in dispute is shown as Chahi kind of land. There was constructions measuring 10''? 10'' of C Class over the land in dispute at the time of issuance of the notification u/s 4 of the Land Acquisition Act. The said construction was of C Class nature and the same could not be adjusted in the planning. The land along with the construction is being acquired fully in accordance with law. Notification u/s 4 of the Land Acquisition Act was also issued fully in accordance with law. The Gazette notification was issued on 16.12.1988. Munadi in village Khandsa was done on 27.12.1988 in accordance with law. The notification was also published in two daily newspapers v.i.z. The Tribune dated 24.12.1988 (English) and Nav Bharat Times (Hindi) dated 26.12.1988. Thus, the notification u/s 4 of the Land Acquisition Act was published fully in accordance with law. The objections filed by the Petitioners were decided in accordance with law as has already been submitted in detail in preliminary objection No. 2 above. The land is being acquired fully in accordance with law. The Petitioners have made false allegations with mala fide intentions.?

?That para No. 11 of the Civil Writ Petition is wrong and hence denied. The land alongwith the construction is being acquired fully in accordance with law and there has been no discrimination in any manner at all. The land in dispute was having construction as has already been submitted in detail in para No. 2 above of the written statement. The land bearing khasra numbers 541, 542, 543, 684, 685 and 689 has been left out of the acquisition as there was construction over the same before the notification u/s 4 of the Land Acquisition Act was issued and the same was in blocks and could be adjusted in the planning. The allegations in this regard are totally wrong and hence denied. The land acquisition proceedings are fully in accordance with law.

6. From the stand taken by the Respondents in the written statement as

aforesaid and which has not been controverted, it is crystal clear that the objections filed by the Petitioners were duly considered after granting them an opportunity of hearing and they were duly represented at the time of hearing. Not only this, it is the Petitioners' own case that open courtyard of their plot which was lying vacant has been acquired and it has also come on record that there was construction over the land of other land owners as mentioned in para No. 11 of the writ petition on the basis of which discrimination to the Petitioners was claimed. There is absolutely no document on record on the basis of which it can be made out as to how the acquisition was bad.

No other point was urged.

7. In view of the aforesaid discussion, we find no merit in these writ petitions and the same are dismissed.