

(1983) 04 P&H CK 0053
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6428 of 1976

Sham Lal and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 26-04-1983

Acts Referred:

Citation : (1983) ILR (P&H) 549 : (1983) PLJ 412 : (1984) RRR 518

Hon'ble Judges : M.M.Punchhi, J

Advocate : Gian Singh, Sr. Advocate., Advocates for appearing Parties

Judgement

M.M.Punchhi, J.(Oral)

1. The petitioners approaching this Court under Article 226 of the Constitution are aggrieved against a set of notifications whereby employing the provisions of urgency the land of the petitioners was sought to be acquitted for providing housesites to Harijans and Backward Class persons. The grouses of the petitioners, which have been put at the forefront, may well be enumerated:

(1) Though the notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 had simultaneously been published in the Official Gazette on 18.6.1976, whereunder the provisions of Section 5A were made nonapplicable; the substance of the notifications had nowhere been publicised in the village;

(2) The acquisition of the kind for providing housesites to the said Harijans and Backward Classes was a timeconsuming measure and hence the applicability of section 5A had, with a mala fide intention, been withheld; and

(3) The matter was not of urgent nature at all since despite the issuance of the notifications on 18.6.1976, the State had till the petitioners approached this Court on 14.9.1976 not even issued notice under section 9 asking the petitioners to vacate possession.

2. In reply thereof the Land Acquisition Collector has stated that the notifications though published on 18.6.1976 were published in the locality on 2.7.1976 and he

has given adequate explanation of the time which got consumed in conveying the said notifications from the Government Headquarters to the field. With regard to the second objection, it is stated that in implementation of the 20 Point Programme adopted by the Government provision of housesites of the landless classes was an urged measure and thus the provisions of urgency had rightly been invoked and there was proper application of mind in that regard. In reply to the third objection, it has been averred that the possession of the land in dispute would be taken only after complying with the provisions of section 9 of the Act.

3. So far as the first objection is concerned, the respondents' reply additionally states that requisite entries in the Roznamcha Waqati of the Patwari had been made and that the substance of the notifications had been publicised by beat of drum in the village on 2.7.1976. In view of this categorical averment, to which there is no counterreply it has to be assumed that this official act had rightly and properly been performed. In paragraph 6 of the return, each day has been explained so as to bring it to the point of culmination, which is 2.7.1976. With regard to the second and third objections, it is to be noticed that allocation of plots to the Harijans and Backward Classes was a part and parcel of the 20 Point Programme of the Government, whereunder to ameliorate the lot of the weaker sections of the society, considerable steps were envisaged to be taken. One of those steps was to make available some space for the poorer sections to build shelters for themselves. In my view, such a measure could not be called, in abstract a nonurgent measure, for sooner or later the State had to activate itself towards that end. Keeping that apart the bona fide of the State cannot be doubted that it treated such a measure to be an urgent one. And as it is wellknown the poorer section, when provided house sites, by self help manage to erect shelters for themselves, far more speedier than by ordinary standards. But be that as it may, it seems rather strange that the State could keep waiting for nearly three months or even more by not even attempting to take possession of the land from the petitioners, despite its avowed utterances that the matter was of urgent nature. It does show that the accomplishment in that regard was only on paper and no serious effort was made to take possession of the land from the petitioners. It is noticeable that on 14.9.1974, when the matter was placed before the Bench no stay order had been granted. Stay was ultimately granted in the presence of the parties on 18.10.1976, on the third hearing. This goes to show that the State was comparatively lethargic in that regard. Now to give the seal of approval of that action of the State would mean that the petitioners would be deprived of their holdings at the price prevailing of 1976; a working injustice to their interests. Therefore, to my mind the conjoint of second and third objections raised herein are that in the instant case the acquisition of the land of the petitioners cannot be said to be for an urgent nature. The action thus must be quashed.

4. For the foregoing reasons, this petition is allowed while quashing the impugned notifications. There will be, however, no order as to costs.