

(1994) 07 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 459 of 1992

Shano Devi and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 14-07-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (1995) 109 PLR 358

Hon'ble Judges : V.K. Bali, J

Bench : Single Bench

Advocate : Arun Jain, for the Appellant; J.S. Duhan, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

V.K. Bali, J.—Even though prayer in this petition filed under Article 226 of the Constitution of India is to quash notifications issued under Sections 4 and 6 of the Land Acquisition Act the only prayer made by the learned counsel for the petitioners at the time of arguments is to leave the vacant portion of the house of the petitioners.

2. In the context of the facts of the present case, the prayer made by the learned counsel for the petitioners deserves to be accepted. It shall be seen that the total area of the petitioners is 5 Biswas and admittedly, in an area of 2 Biswas, the petitioners had constructed the house. It is only this area, which has been left out from the array of acquisition, whereas the remaining 3 Biswas has been acquired, thus rendering the house of the petitioners of no use to them. If every inch around the house of the petitioners is acquired, the same cannot be put to any meaningful use. Learned Assistant Advocate General, Haryana, appearing on behalf of the respondents has not been able to tell me as to how the petitioners will use the house of their ingress and out-gress. Apart from that, today itself, I have decided a number of cases wherein the positive stand of the respondents is to leave out an equivalent vacant area commensurate to the constructed area. The aforesaid stand has been reflected in all the written statements and on that

very basis all the cases have been decided. It cannot be said in this case that the entire vacant area of the petitioners around their houses is to be acquired, as it would certainly amount to discrimination inasmuch as with regard to other equally situated persons, an equivalent area has been left out, whereas the petitioners have not been given the same treatment. If equivalent to the constructed area is left out, that would leave the State with only one Biswa which obviously cannot be put to any use by the State. That being so, the petition is allowed leaving the parties to bear their own costs.