
(2002) 08 P&H CK 0073
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 480 of 1996

Smt. Saroj Chadha

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-08-2002

Acts Referred:

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

Citation : (2002) 4 RCR(Civil) 206

Hon'ble Judges : Satish Kumar Mittal, J

Bench : Single Bench

Advocate : Rajneesh Chadwal and Ashish Kapoor, for the Appellant; Rajesh Bhardwaj, Assistant A.G. and Ranjit Saini, for the Respondent

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—This judgment will dispose of two writ petitions i.e. C.W.P. Nos. 480 of 1996 and 5758 of 1996 as in both the cases, same questions of law as well as facts are involved.

2. For the purpose of decision, facts have been taken from C.W.P. No. 480 of 1996.

3. This petition has been filed by one Smt. Saroj Chadha, under Articles 226 and 227 of the Constitution of India, for issuance of writ in the nature of certiorari for quashing the notification (Annexure P-2) dated 9.11.1992 issued by the respondents u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"), as well as the notification dated 6.11.1993 (Annexure P-4) issued u/s 6 of the Act. By these notifications, the respondents acquired the land of the petitioner for a public purpose, namely for the development and utilisation of the land for residential and commercial area along with Sector Road at Sonapat by the Haryana Urban Development Authority. The aforesaid notifications were challenged by the petitioner firstly on the ground that these notifications were not duly published according to the mandatory requirement provided under

Sections 4 and 6 of the Act and secondly that the respondents have acted discriminately while acquiring the land as the lands belonging to some owners were released from acquisition, whereas the petitioner's land was not released. It is also averred that the respondents have not paid the compensation to the land owners at the time of announcement of the award which was announced on 5.11.1995, The present petition was filed by the petitioner on 3.1.1996 i.e. after pronouncement of the award. On note No. 3 of the index of the writ petition, it has been mentioned that the facts of this case are covered by C.W.P. No. 16161 of 1995 arising from the same notification and the same award in which on 10.1.1996 notice of motion was issued for 18.1.1996 and dispossession was stayed till further orders.

4. In pursuance to the notice issued to the respondents No. 1 and 4 filed the written statement controverting the allegations made by the petitioner.

5. At the time of motion hearing on 5.2.1998, counsel for the respondents pointed out to the Hon'ble Bench that the identical matter had already been dismissed by the Division Bench. Therefore, the case was adjourned to 27.2.1998 to await the decision of that case. Thereafter, the case was adjourned on several occasions and ultimately, the case was admitted on 16.9.1998 and now these petitions have been listed for regular hearing before this Court.

6. Mr. Rajesh Bhardwaj, Assistant Advocate General, learned counsel for the State pointed out that identical writ petition challenging the same notification on the same ground i.e. C.W.P. No. 16161 of 1995, which the petitioner has himself mentioned in note No. 3 of the index, was dismissed by this Court on 24.10.1997 in view of the order of even date passed in C.W.P. No. 15960 of 1995. The counsel for the petitioner could not controvert the facts. In these circumstances, I called for the record of C.W.P. No. 16161 of 1995 as well as the C.W.P. No. 15960 of 1995. In both these petitions, the same notifications have been challenged on the same ground. It was held in C.W.P. No. 15960 of 1995 that notification u/s 4 of the Act was duly published in two newspapers and the substance of the said notification was also published in the locality by munadi. It was held that the declaration u/s 6 of the Act was also duly got published in Hindi News Paper and Dainik Tribune dated 16.11.1993. A munadi was also made in the locality by beat of drums and a report to this effect was reduced in writing by Halqa Patwari in his roznamcha. Both these notifications under Sections 4 and 6 of the act were duly published according to law. It was also held that no objections u/s 5-A of the Act were filed, therefore, notification u/s 6 of the Act, cannot be challenged.

7. In the written statement fixed by respondent Nos. 1 and 4, it has specifically been averred that the notifications u/s 4 and 6 of the Act were duly published as aforesaid and there was no discrimination made against the petitioner by not releasing his land from acquisition. No land of any other persons similarly situated to that of the petitioner was released from acquisition. In para 8 of the written statement, it was specifically averred that the petitioner did not file any

objection u/s 5-A of the Act, therefore, question of discrimination does not arise and the petitioner cannot challenge the notification u/s 6 of the Act.

8. By way of the replication, the petitioner averred that she sent the objections u/s 5-A of the Act by registered post and postal receipt was annexed as Annexure P-6. Neither this receipt bears any date, nor it is clear from it that who sent this receipt and for what purpose. The averments made in the written statement do not deem to have been controverted by such vague replication.

9. The same controversy was also raised in C.W.P. No. 16161 of 1995 which was dismissed in limine by a Division Bench of this Court on 24.10.1997.

10. I have perused the pleadings of the present writ petition as well as the pleadings in judgments passed in C.W.P. No. 16161 of 1995 and C.W.P. No. 15960 of 1995 and am of the opinion that all these petitions pertain to the same notification and in all these petitions similar averments regarding facts and question of law have been made.

11. I have also considered the matter once again and am of the opinion that there is no merits in the petition. The notifications under Sections 4 and 6 of the Act, were duly published as per requirement of law. The petitioner even did not file objections u/s 5-A of the Act. Thus, she cannot challenge the acquisition. Even this petition was filed after the award, hence the same is not maintainable. The averments regarding the discrimination in acquisition are also baseless and cannot be raised as the petitioner did not file any objections opposing the acquisition.

12. Since vide order dated 24.10.1997, this Court already dismissed similar writ petition i.e. C.W.P. No. 16161 of 1995, therefore, I also dismiss both these petitions finding no merit in the same.