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**(2000) 08 P&H CK 0049**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 12055 of 1999**

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|-----------------------------------------------------|----|------------|
| Smt. Shanti Dua                                     | Vs | APPELLANT  |
| The Haryana Urban Development Authority and another |    | RESPONDENT |

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**Date of Decision :** 24-08-2000

**Acts Referred:**

Land Acquisition Act, 1894 — Section 2, 4

**Citation :** (2000) 4 RCR(Civil) 630

**Hon'ble Judges :** K.S. Garewal, J;Jawahar Lal Gupta, J

**Bench :** Division Bench

**Advocate :** Ashok Gupta, for the Appellant; Raminder Gadhoke, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Jawahar Lal Gupta, J.—The Petitioner owned a plot measuring 237 square yards in village Ferozepur Kalan. Tehsil Kalka, District Ambala. This land was acquired vide notifications issued under Sections 2, 4 and 6 of the Land Acquisition Act. 1894, in the year 1982. According to the Petitioner, the notification u/s 6 was issued on October 26, 1982. She further alleges that there was a residential house on this plot and that she was awarded a compensation of Rs. 2690/- for this structure. On this basis, the Petitioner submitted a representation to the Respondent authority for allotment of a plot in Panchkula. This request having been declined vide order dated May 24, 1999, a copy of which has been placed on record as Annexure P.9, the Petitioner has approached this Court through the present writ petition. She prays that the order dated May 24, 1999 be quashed and that a writ of mandamus be issued directing the Respondents to allot a plot to her in accordance with the policy contained in the letter dated September 10, 1987. A copy of this policy decision issued by the Chief Administrator of the Respondent authority has been placed on record as Annexure P.2.

2. The Respondents contest the Petitioner's claim. It has been inter-alia averred that a similar claim was made in Civil Writ Petition No. 4932 of 1995 (Chaman Lal

v. HUDA). This writ petition was dismissed. It has also been averred that the claim made by the Petitioner is highly belated and that the policy has no application to the facts of the present case. Still further, the Respondents maintain that "it was decided to allot plots in Sector 19, Panchkula to those persons who were bona fide owner residents of village Ferozepur Kalan ..... " It is alleged that the Petitioner "is not resident of village Ferozepur Kalan and has not constructed house in the said village. The plot was vacant and had only a boundary wall".

3. Counsel for the parties have been heard. Mr. Ashok Gupta, learned Counsel for the Petitioner contends that the relief claimed in the writ petition deserves to be allowed. The claim has been controverted by Ms. Raminder Gadhoke, appearing for the Respondents.

4. Admittedly, the Petitioner's land was acquired in the year 1982. The entire acquisition proceedings including the award were over well before September 10, 1987 when the alleged policy decision had been circulated by the Respondent authority. In the very nature of things the decision as embodied in the letter dated September 10, 1987 was prospective. It had to operate after the issue of the letter. There is nothing to indicate an intent for retrospective operation. In fact, the language does not suggest that. Practically, it would be impossible to give the letter a retrospective operation. It would give rise to thousands of claims. Thus, we hold that it did not apply to acquisition which had already been made. The Petitioner cannot derive any advantage from this decision.

5. Mr. Gupta contends that in the written statement it has been categorically averred that the decision to allot plots had been taken by the authorities. Assuming it be so, the decision was only in respect of the persons who were residing in village Ferozepur Kalan. Except making an assertion, nothing has been produced on record to show that the Petitioner had a house and that she was actually residing in the village. No ration card has been produced. No voters' list has been produced. It is the categorical assertion in the written statement that the Petitioner had raised only a boundary wall around the plot. No replication has been filed to controvert this. No evidence has been produced on the record to show that the Petitioner had a house in the village and that she was actually residing there. Thus, the assertion on behalf of the Respondents that the Petitioner did not have any residential accommodation in the village has to be accepted. Still further, from the address in the petition it is obvious that the Petitioner is residing in Saproon. District Solan. Consequently, the claim that she was resident of village Ferozepur Kalan. cannot be sustained.

6. Mr. Gupta, contends that in the award given by Additional District Judge, compensation of Rs. 2690/- has been given for the house which existed. We have perused the award. A copy is there on the record as Annexure P.3. A perusal of this award shows that in para 9 it has been mentioned that S.D.O. had assessed the value of the house at Rs. 2690/- vide report Ex. R.1. It appears that the expression "house" has been used generally. In the written statement it

has been explained that there was a boundary wall over the plot. A structure would have been valued at more than Rs. 2690/-. The Petitioner has not given details regarding the actual accommodation. Was there any room? Was there any toilet? Was there any kitchen? There is no answer. In fact, there is nothing on the record which may indicate that the Petitioner had a house in the village or that she was at all residing there.

7. No other point has been raised on behalf of the Petitioner. However, on behalf of the Respondents, it has been pointed out that the petition is highly belated.

8. The petition is clearly belated. Land had been acquired in the year 1982. The claim for allotment of the plot has been made before this Court in the year 1999 and the delay has been sought to be explained on the basis of the undated representation which was rejected vide letter dated May 24, 1999. 9. In view of the above, we find no merit in this petition. It is dismissed. No costs.

Sd/-K.S. Garewal, J.