

(2011) 03 P&H CK 0515

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11015 of 1989 (O and M)

Smt. Vijay Lata

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 31, 4, 5A, 6

Citation : (2011) 03 P&H CK 0515

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

Bench : Division Bench

Judgement

Jasbir Singh, J.—Petitioner is the owner of 199 Sq. yards of land. She has challenged a notification issued u/s 4 of the Land Acquisition Act, 1894 (in short the Act) on November 17, 1982, proposing to acquire a vast track of land falling in several villages for a public purpose, i.e., to develop and utilise the land as an institutional, residential, commercial and industrial area in Sector 15, Gurgaon. Further challenge has been laid to a declaration issued on December 10, 1984 u/s 6 of the Act showing intention of the authorities to finally acquire the land in question.

2. In this writ petition, it is contention of the counsel for the Petitioner that in her land, the Petitioner had constructed a residential house, which, as per policy of the State Government, cannot be acquired. It is further stated that there is violation of the provision of Section 31 of the Act. The compensation, after passing of an Award on September 21, 1986, was neither paid to the Petitioner nor deposited in the competent Court. So a prayer has been made to quash the notifications mentioned above.

3. Shri Sehgal to the contrary averred that the Petitioner became owner of the land after issuance of notifications under Sections 4 and 6 of the Act. No objection u/s 5-A of the Act was filed by the previous owner, as such no relief can be granted to the Petitioner. Taking note of a fact that the matter is pending since from the year 1989 and thinking that most of the acquired land might have

been developed by now, vide order dated January 24, 2011, we asked Shri Sehgal to verify the situation/position at the spot and report as to whether house of the Petitioner can be exempted/adjusted by the department in the scheme or not. In response thereto, copy of a letter dated February 16, 2011, along with status report was put on record. The status report reads thus:

Sub: CWP No. 11015 of 1989 - Vijay Lata v. State of Haryana, LAC Sector 15, Gurgaon fixed for 16.02.2011.

Ref: Your office memo No. CTP/STP (N)/KM/1322 dated 14.2.2011.

With reference to your letter referred above, it is stated that land of Petitioner falls in Khasra No. 22//17/2 min measuring 199 Sq. yards in the revenue estate of Village Jharsa Sector 15 Part 1, Gurgaon. Land stands acquired vide award No.12 dated 21.9.86. As per record of LAO(G) office/written statement filed in this case, the Petitioner purchased the land vide sale deed No. 6622 dated 10.2.1986 i.e. after notification of land Under Section-4 and 6 on 17.11.82 and 10.12.84. Construction on plot has also been raised afterwards.

No record pertaining to reconstruction of the house of Petitioner by HUDA is available. As per site report, the constructed house of the Petitioner falls in the alignment of 10M wide road which obstructs approach to plot No. 556-P and 557 of 14 Marla category. The land area falling out side the 10M wide road alignment can only be adjusted in the planning of the sector. The details of existing constructions of the Petitioner and the adjoining area is given in the site report.

On tour Administrator, HUDA, Gurgaon

Sd/-

STP HUDA Gurgaon

Sd/-

DTP Gurgaon

Sd/- S.D.E.(.)

Estate Officer-1 HUDA Gurgaon

4. Site plan has also been annexed with the above said status report, which clearly indicates that most of the land owned by the Petitioner falls in the road alignment. If the same is utilised, a very small portion of land will remain with the Petitioner, probably the same cannot be put to any use. Otherwise also, once the Petitioner has purchased the litigation by buying the land in question after issuance of notifications under Sections 4 and 6 of the Act, no relief can be granted to her in terms of the judgment of the Hon''ble Supreme Court in Shanti Sports Club and Another Vs. Union of India (UOI) and Others, . Writ petition has also been filed after passing of an award and as such it cannot be entertain in view of the ratio of judgment of the Hon''ble Supreme Court in Sawaran Lata etc. Vs. State of Haryana and Others, .

5. As per facts above, we feel that no relief can be granted to the Petitioner in this writ petition. Faced with the situation, counsel for the Petitioner made a reference to document Annexure P-4 dated October 15, 1987, in which it is mentioned that the Petitioner being an oustee is entitled to allotment of a plot. Relevant portion of the letter reads thus:

Subject: Release of land of Smt. Vijay Lata situated in

Reference your letter No. 7831 dated 27.3.87 on the subject cited above.

The State Govt. has taken a decision that the land of the Petitioner cannot be released. Therefore, the applicant, being an oustee, is entitled for the allotment of a plot and in this connection, he should send your detailed comments to the Chief Administrator, HUDA so that action be taken for the allotment of a plot to the applicant. Necessary instructions for the allotment of plot to the oustee have already been sent to you.

6. If that is so, the Petitioner may move an application to the authorities concerned and as per policy of the State Government, it is expected that the authorities will grant her requisite relief. Disposed of.