

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No. 17072 of 2009

Date of decision: 29-09-2010

Tejvir Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: Hon'ble Mr. Justice Jasbir Singh
Hon'ble Mr. Justice Augustine George Masih**

Present: Mr. N.C. Kinra, Advocate for the petitioner
Ms. Palika Monga, DAG Haryana
Mr. Amit Sharma, Advocate for HUDA

Jasbir Singh, J. (Oral)

In response to order passed on 20-7-2010, a short reply filed by Mr. T.C. Gupta, Special Secretary, Town and Country Planning and Urban Estates Department, Haryana, in Court, is taken on record.

This order shall dispose of Civil Writ Petition No's 1628 of 2010, 17072 and 18986 of 2009, involving similar questions of law and facts. For facility of reference, to dictate order, facts are being mentioned from CWP No. 17072 of 2009.

This writ petition has been filed to impugn a notification dated 15-12-2006 (P4), issued under Section 4 of the Land Acquisition Act, 1894 (in short, the Act). Further challenge has been made to a declaration issued under Section 6 of the Act on 14-12-2007 (P7).

It is apparent from the records that for the public purpose, namely, to development residential Sector-36 in Rohtak, the notification under Section 4 of the Act was issued to acquire 231.04 acres of land situated in villages Bohar, Para and Bhayapur, tehsil and district Rohtak.

It is coming out from the record that in response to a notification issued under Section 4 of the Act, the petitioner filed objections on 17-1-2007 under section 5-A of the Act. Relevant portion of the objections reads thus: -

“It is submitted that I/we are the co-sharers in Mouza Para Tehsil and District Rohtak. We have constructed our houses in Rect. No. 4 Killa Nos 23, 17, 18 and 23. These houses are from our forefathers. We have been living in them since long. We have got electric connections also.

Now, notification under Section 4 for acquisition has been published. Therefore, we have objection to it. Our houses may not be acquired because we have no other house to live in. We earn our livelihood from new innovations, workshop, orchard, Herbal Park, nursery and from the fertile land. There is a samadh of our father. It may not be acquired.

The Collector dealt with the objections filed by the petitioner and ordered release of 16 marlas of land, wherein construction was in existence. Rest of the vacant land was ordered to be acquired. Declaration was issued on 14-12-2007.

It is primary contention of counsel for the petitioner that before issuing declaration under Section 6 of the Act, no decision was taken on objections filed by the petitioner under Section 5-A of the Act. To that extent, the petitioner made the following averments in the writ petition: -

“5. That the petitioner filed objections dated 17-1-2007 under Section 5-A of the Land Acquisition Act against the proposed acquisition of their properties for dropping of the acquisition proceedings qua his property. The petitioner also submitted representation to the Hon’ble Chief Minister in this regard which percolated to the Land Acquisition officer and he submitted his report recommending only a part of the constructed portion. True translation of the objections dated 17-1-2007, representation and letter appended as Annexure P-6 to P6/2 respectively. The LAO recommended the release of the constructed portion by his report Annexure P-6/3.”

In response to notice issued, reply has been filed at the instance of respondent Nos. 1 and 3. Paragraph No. 3 (preliminary objections) of the written statement filed reads thus: -

“3 That the land owners were given an opportunity to file objections u/s 5-A of the Land Acquisition Act and the petitioner filed the objections. The land

owners who filed the objections were given due opportunity of being heard on 29-1-2007. Notice for proper hearing dated 29-1-2007 was given to the petitioner and petitioner was himself present and his statement was recorded. Government after considering the objection u/s 5-A and report of land acquisition Collector, decided to acquire the vacant land of the petitioner. It is relevant to mention here that constructed portion, mentioned in the objections u/s 5A by the petitioner, in land measuring 16 marla related to the Shamalt Deh and 0.4 marla of the one another land owner named Karambir was left out from the acquisition u/s 5-A of the Act."

There is nothing on record to show that decision was not taken on the objects filed by the petitioner, Rather facts indicate to the contrary, It is specifically mentioned in the reply filed at the instance of respondent Nos. 1 and 3 that by taking note of objections file by the petitioner, his land measuring 16 marlas was left out of acquisition. It is an admitted fact that rest of the land of the petitioner was lying vacant. Same is the situation so far as land involved in other two writ petitions are concerned.

On 20-7-2010, before this Court, an attempt was made to say that discrimination has been done with the petitioner because a vast track of land was released in favour of a builder, namely, M/s Sharad Farms and Holdings Pvt Ltd and its associates. Taking note of the objection, Secretary, Housing and Urban Development, Government of Haryana, was directed to file an affidavit clarifying the following queries: -

- i) *As to under what circumstances the area was released?*
- ii) *Whether for release of that area objections were filed under section 5A of the Act and if so, what decision was taken thereon?*
- iii) *If there was no need to acquire area which was afterwards released, why notifications under sections 4 and 6 of the Act were issued and what were the reasons in not conducting proper survey before issuance of the notifications?*
- iv) *When application was moved by the developer(s) for grant of change of land use certificate?*
- v) *Whether any farmer whose land was ordered to be acquired has entered into collaboration agreement with any developer(s)?*
- vi) *As to in whose favour license to develop colony was issued and who has deposited the fee for the same?*

In response thereto, reply has been filed, reading of which clearly indicates that it was not a case where above said builder and its associates had become owners after issuance of notification under Section 4 of the Act. In reply, it is specifically mentioned that the said builder and its associates were owners of the land when notification under Section 4 of the Act was issued. It is further stated that application of the builder to development a colony was pending, when notification under Section 4 of the Act was issued, thereafter, land was released in terms of the Policy of the State Government in favour of the builder, to develop a colony, subject to some conditions.

We are satisfied with the stand taken in the reply filed before this Court today, which makes out no case in favour of the petitioner, in terms of discrimination, as alleged by him.

In view of facts mentioned above, no case is made out for interference.

Dismissed.

Sd/- (Jasbir Singh)
Judge

Sd/- (Augustine George Masih)
Judge

29-09-2010