

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 10971 of 2004

Date of Decision : February 11, 2008

Banwari Lal and another

..Petitioners

Versus

The State of Haryana and others

..Respondents

CORAM : HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr.S.M. Sharma, Advocate
for the petitioners.

Ms. Palika Monga, Assistant Advocate General, Haryana
for respondents No. 1 and 3.

Ms.Vandana Malhotra, Advocate
for respondent No. 2.

M.M. KUMAR, J.

This petition filed under Article 226 of the Constitution prays for quashing notification dated 17.4.2002 issued under Section 4 (Annexure P.2) of the Land Acquisition Act, 1894 (for brevity 'the Act') and declaration dated 10.4.2003 made under Section 6 (Annexure P.4) of the Act. A further prayer has also been made for directing the respondents to release the constructed houses of the petitioners.

Brief facts of the case are that on 27.2.1987 and 2.2.2000, petitioners No. 1 and 2, respectively, purchased small plots in Sri Vihar, Defence Employee Colony, Najafgarh Road, Bahadurgarh, which are stated to be within the Municipal limit. The petitioners, thereafter raised construction over the plots after raising loan. It is claimed that the civil

C.W.P. No. 10971 of 2004

-2-

amenities, like electric connections, ration cards, telephone connections, etc. have been provided by the Municipal Council in the area. On 17.4.2004 notification (Annexure P.2) under Section 4 of the Act was issued to acquire the said land, which was published in a newspaper, namely, 'Hari Bhoomi' (Hindi). The petitioners filed their objections under Section 5-A of the Act (Annexure P.3) before the Land Acquisition Collector. Subsequently, declaration under Section 6 of the Act dated 10.4.2003 (Annexure P.4) was issued acquiring the land, including constructed houses of the petitioners.

The main grievance of the petitioners is that the notification was published only in the newspaper 'Hari Bhoomi' (Hindi) and not any other newspaper popular in the area. Moreover, no public notice of the substance of such notification was displayed in the locality. The objections filed by the petitioners were not heard by the Land Acquisition Collector himself, rather two officials of the Land Acquisition office were present to hear the objections which was only an eye-wash to show that personal hearing has been given.

On 31.1.2008, learned State counsel made a prayer for an adjournment to place on record the site plan marked in red colour showing Pocket 'A' to 'M' and other documents facilitating the decision to find out as to whether the area belonging to the petitioners is covered by the recommendations made by the Joint Site Plan Committee. The said prayer was accepted subject to payment of costs of Rs. 5000/-, which has been paid in the Court today.

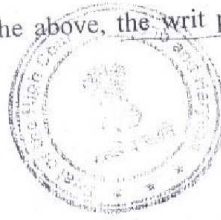
In pursuant to the directions issued by this Court on 31.1.2008, the Site Plan has been placed on record as Mark 'B', which was part of the report submitted by the Joint Site Inspection Committee. A glance on the said plan shows that the Committee had recommended exclusion of thickly

C.W.P. No. 10971 of 2004

-3-

populated area (marked in red colour) Pocket 'A' to 'M' from the acquisition. The properties/lands belonging to the petitioners is not covered by aforementioned recommendations. The notification under Section 4 of the Act was issued on 17.4.2002 and objections under Section 5-A of the Act thereafter were filed on 7.5.2002. Then declaration to acquire the land under Section 6 of the Act was issued on 10.4.2003. Moreover, the instant petition has been filed on 12.7.2004, whereas the award was announced on 25.6.2004. It would show that the petitioners did not have any serious objection to the enquiry held under Section 5-A of the Act. Hon'ble the Supreme Court in case titled as Municipal Council, Ahmednagar v. Shah Hyder Beig and others A.I.R. 2002 SC 671, in somewhat similar facts and circumstances had taken view that delay in approaching the Court cannot result in quashing notifications issued under Sections 4 and 6 of the Act. Even otherwise the writ petition would not be maintainable after pronouncement of award, as has been held by Hon'ble the Supreme Court in the cases of Star Wire (India) Ltd. v. State of Haryana (1996) 11 SCC 698, Municipal Council Ahmednagar v. Shah Hyder Beig (2000) 2 SCC 48 and C. Padma v. Dy. Secretary to the Government of Tamil Nadu (1997) 2 SCC 627.

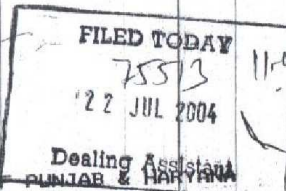
In view of the above, the writ petition fails and the same is dismissed.

Sd/- M.M. Kumar
JudgeSd/- T.P.S. Mann
JudgeTrue Copy
Revu
Ex-5-08
Examiner

FEBRUARY 11, 2008

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May 18/08
28/2
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IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH

CIVIL WRIT PETITION NO 1097 OF 2004

1. Banwari Lal son of Shiri Chand resident of H.No. 965,
Plot No. 17, Ward No. 13, Sri Ram Vihar, Defence
Employees Colony, Bahadurgarh, Distt. Jhajjar.
2. Karan Singh son of Tara Chand, Plot NO. 14, Sri Ram
Vihar Colony, Najafgarh Road, Bahadurgarh, Distt.
Jhajjar.

.....PETITIONERS

V E R S U S

1. State of Haryana through its Secretary Haryana Urban
Estate Department Civil Secretariat at Chandigarh.
2. Chief Administrator HUDA Complex, Sector-6, Panchkula,
Haryana.
3. Land Acquisition Collector, Urban Collector, Urban
Estates Department Haryana HUDA Building, Sector-12,
Faridabad.

.....RESPONDENTS

Civil Writ Petition under Article
226/227 of the Constitution of India for
the issuance of a writ in the nature of

MAHESH WADHWA
Spl. Stamp Vendor
Pb. & Hry. High Court,
CHANDIGARH

certiorari quashing of the notification
under Section 4 dated 17.4.2002
(ANNEXURE P-2) and notification under
Section 6 dated 10.4.2003 (ANNEXURE P-4)
being illegal as having not been
published as per provisions of the Land
Acquisition Act;

AND

for issuance of writ of mandamus
directing the respondents to release the
constructed houses of the petitioners

OR

Issue any other appropriate writ, order
or direction which this Hon'ble Court may
deems fit and proper under the facts and
circumstances of the case.

RESPECTFULLY SHOWETH

1. That the petitioners are citizens
of India and are residents of Haryana hence are
entitled to invoke the extra-ordinary writ
jurisdiction of this Hon'ble Court under Articles 226
of the Constitution of India.