

**The Petitioner Challenges the Notifications Dated Vs. Laxmi Narain
.....Petitioner**

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Court : Punjab and Haryana

Decided On : Jan-29-2014

Appellant : The Petitioner Challenges the Notifications Dated

Respondent : Laxmi Narain Petitioner

Judgement :

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH Civil Writ
Petition No.1631 of 2014 Date of Decision: January 29, 2014 Laxmi Narain
.....Petitioner versus The State of Haryana and others Respondents CORAM :
HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE AMOL RATTAN SINGH.

Present : Mr.A.S.Tewatia, Advocate, for the petitioner.

Ms.Tarannum Verma, Asst.

AG, Haryana.

-. 1.

Whether Reporters of Local papers may be allowed to see the judgment?.

2.

To be referred to the Reporters or not?.

3.

Whether the judgment should be reported in the Digest?.

--- Surya Kant, J.

(Oral) Notice of motion to respondent Nos.1 & 2 only at this stage.

On our asking, Ms.Tarannum Verma, learned Assistant Advocate General, Haryana, accepts notice on their behalf.

Let two copies of the writ petition be supplied to the learned State Counsel during the couRs.of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non- prosecution.

In view of the nature of order which we propose to pass, neither respondent Nos.3 & 4 are required to be served nor any counter-reply from respondent Nos.1 & 2 is needed at this stage.

Kumar Mohinder 2014.02.21 15:39 I attest to the accuracy of this order Chandigarh CWP No.1631 of 2014 [2].The petitioner challenges the notifications dated 25.05.2010 (Annexure P-1) and 24.05.2011 (Annexure P-2) issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act').respectively, to the extent of acquisition of his residential house said to have been constructed on the land measuring 1 kanal 1 marls comprising rectangle No.19/18 situated within the revenue estate of village Kadipur, Tehsil and District Gurgaon.

The petitioner's case is that the subject house was constructed much before issuance of notification under Section 4 of the Act and a specific objection to this effect was taken vide his objections filed under Section 5-A of the Act but the same was brushed aside by the Collector.

It is averred that in view of the decision of this Court dated 17.07.2013 in CWP No.19999 of 2012 (Ram Kishan and others versus State of Haryana and others).it

is imperative upon the respondents to verify the claim of the petitioner and if found correct, to release/exempt his residential house from acquisition.

Having heard learned counsel for the parties and considering the factual assertion made by the petitioner, we dispose of this writ petition in terms of the order dated 17.07.2013 passed in Ram Kishan and otheRs.case (supra) with a direction to the Land Acquisition Collector to re-survey the petitioner's site and if it is found correct that there exists a residential house constructed before issuance of Section 4 notification, the respondents are directed to consider the petitioner's claim for the release of said house in accordance with the Government Policy dated 26.10.2007 as modified on 24.1.2011 which has been approved to that extent by the Hon'ble Supreme Court in Patasi Devi versus State of Haryana Kumar Mohinder 2014.02.21 15:39 I attest to the accuracy of this order Chandigarh CWP No.1631 of 2014 [3].and otheRs.(2012) 9 SCC503observing as follows:- 19.

Before this Court it has been pleaded that on the date of issuance of preliminary notification the appellant's land was vacant, but, this statement cannot be relied upon for denying relief to her because no such averment was made in the counter-affidavit filed before the High Court.

The policy framed by the Government of Haryana clearly stipulates release of the land on which construction had been raised prior to issuance of Section 4 notification.

The appellant's case is covered by that policy.

Therefore, her land ought to have been released as was done in the case of M/s Sharad Farm and Holdings (P) Ltd.....

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An appropriate order in this regard shall be passed within a period of four months from the date of receiving a certified copy of this order.

Till then, both the parties are directed to maintain status-quo.

Dasti.

[SURYA KANT].JUDGE January 29, 2014 [AMOL RATTAN SINGH].Mohinder
JUDGE Kumar Mohinder 2014.02.21 15:39 I attest to the accuracy of this order
Chandigarh

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