

**Prosecution. Vs. State of Haryana and Others**

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**SooperKanoon Citation :** [sooperkanoon.com/1161453](http://sooperkanoon.com/1161453)

**Court :** Punjab and Haryana

**Decided On :** Jul-23-2014

**Appellant :** Prosecution.

**Respondent :** State of Haryana and Others

**Judgement :**

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH [1].Civil Writ Petition No.13824 of 2014 Date of Decision: July 23, 2014 Smt.Pushpa Devi .....Petitioner versus State of Haryana and others .....Respondents [2].Civil Writ Petition No.13827 of 2014 Bhupender .....Petitioner versus State of Haryana and others .....Respondents CORAM : HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MRS.JUSTICE LISA GILL.

Present : Mr.S.P.Chahar, Advocate, for the petitioneRs.Mr.R.D.Sharma, Sr.Deputy 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) This order shall dispose of Civil Writ Petition Nos.13824 and 13827 of 2014 as both the cases have similar facts and have arisen out of the same acquisition proceedings.

Notice of motion to respondent Nos.1, 2 & 5 only at this stage.

On our asking, Mr.R.D.Sharma, learned Senior Deputy Advocate General, Haryana, accepts notice on their behalf.

Let three copies of each 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 petitions shall be deemed to have been dismissed for non- MOHINDER KUMAR201408.14 16:50 I attest to the accuracy of this order Chandigarh CWP Nos.13824 & 13827 of 2014 [2].prosecution.

In view of the nature of order which we propose to pass, there is no need to seek counter-reply from respondent Nos.1, 2 & 5 or to serve respondent Nos.3 & 5 at this stage.

The petitioners in both the cases seek a mandamus to direct the respondent-authorities to release their acquired properties comprising residential house(s) alongwith vacant land.

It is averred in CWP No.13824 of 2014 that small piece of land measuring 12 marla was purchased by the petitioner vide registered sale deed dated 10.04.2001 which has been included in the acquisition carried out vide notifications dated 14.08.2003 (Annexure P-1) and 10.08.2004 (Annexure P-2) issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act').respectively.

The land was acquired for the development of residential and commercial area in Sector-9, Jhajjar.

It appears that the subject-acquisition was challenged before this Court in a bunch of writ petitions including CWP No.14769 of 2006 (Smt.Krishna Devi and others versus State of Haryana and others).The then Special Secretary to Government of Haryana, Urban Estates Department, filed an affidavit in the main case alongwith list of persons having structures/residential houses and the applicants who have not preferred CWPs.....

The name of the petitioners figured at Serial Nos.15 & 42, i.e., structure Nos.21 and 56, respectively.

The recommendations are also said to have been made to release the properties of petitioners but unfortunately no such orders were passed.

MOHINDER KUMAR201408.14 16:50 I attest to the accuracy of this order Chandigarh CWP Nos.13824 & 13827 of 2014 [3].Though it is admitted by the respondents that there existed residential houses but the same were not released apparently for the reason that the petitioners did not earlier approach this Court.

The photographs appended in the connected writ petition prima-facie reveal that the structures were raised by the petitioner before issuance of Section 4 notification.

Suffice to observe that the State Government has formulated a policy dated 26.10.2007 as amended on 24.01.2011, whereunder the structures/houses found in existence at the time of issuance of Section-4 notification can be released.

It may also be mentioned that earlier the petitioners approached this Court seeking the same relief but their writ petitions No.2217 and 2236 of 2013 were dismissed as withdrawn vide order dated 01.02.2013 with liberty to them to take recouRs.to the remedies as available under the law.

What else could be the remedy except to approach the authorities?.

The petitioners did the same and served the respondent-authorities vide legal notice(s) dated 03.04.2013.

Finding no response, they have again knocked at the doors of this Court.

If the facts, as alleged by the petitioners, were to be true, it appears to be a case of hostile discrimination where the petitioners have been denied the benefit of Government policies only because they did not earlier approach the Court.

The petitioners cannot be deprived of the benefit of a welfare policy of the State only on this ground.

We, however, need not to express any views on the merits of petitioners' claim.

Suffice it to dispose of these writ petitions with a direction to the MOHINDER KUMAR201408.14 16:50 I attest to the accuracy of this order Chandigarh CWP Nos.13824 & 13827 of 2014 [4].respondent-authorities to verify and ascertain the correct facts and if it is found that the case of the petitioners falls within the four corners of the Government Policy, let an appropriate order for the release of such properties 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.

The writ petitions stand disposed of accordingly.

Dasti.

[SURYA KANT].JUDGE July 23, 2014 [LISA GILL].Mohinder JUDGE MOHINDER KUMAR201408.14 16:50 I attest to the accuracy of this order Chandigarh

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