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ITEM NO.7

COURT NO.5

SECTION IVB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2012
CC 11864/2012

(From the judgement and order dated 25/08/2011 in WP No.11412/2004, of The
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF HARYANA & ORS.

Petitioner(s)

VERSUS

LEHRI SINGH & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP,c/delay in refiling SLP,permission
to file additional documents and office report)

Date: 29/08/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr. Aditya Singh, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

The delay of 47 days in filing the special leave petition
and 148 days in refiling the special leave petition is condoned.

By the impugned order, the High Court allowed the writ
petitions filed by the respondents and others questioning the
acquisition of their land situated in Village Ballaur etc. for
development and utilization thereof as residential, commercial and
institutional areas of Bahadurgarh.

The respondents had challenged the acquisition proceedings
on the following grounds:

- 1) They were not given opportunity of hearing in terms of the
mandate of Section 5A(2) of the Land Acquisition Act, 1894.
- 2) The acquisition was ultra vires the mandatory provisions
contained in the National Capital Region Planning Board Act,
1985.
- 3) The State Government had discriminated them inasmuch as their
land was not released despite the fact that construction and
samadhis of their predecessors existed over the land.
- 4) Land belonging to others was released by issuing notification
under Section 48 of the Land Acquisition Act and otherwise,
but similar action was not taken in their case.

In the written statement filed on behalf of the
petitioners, it was pleaded that the land of the respondents had been
acquired for a public purpose after considering the report submitted
by the Land Acquisition Collector and the Joint Site Inspection
Committee and that the opportunity of hearing was given to the
respondents.

The Division Bench of the High Court referred to an earlier

order passed in CWP No.2308/2004 - Reshma Footwears (P) Ltd. v. State of Haryana and others decided on 21.6.2010 on the issue of discrimination and proceeded to observe:

As in the present case, it was noted in the case of Reshma Footwears (supra) that the vacant land to the extent of about 100 acres was kept out of acquisition whereas acquisition was ordered qua land owned by the petitioners. Such a discrimination has been negated by the Hon'ble Supreme Court in case of Hari Ram & Another v. The State of Haryana and others JT 2010(2) SC 235, wherein it was observed as under:-

"It is true that any action or order 14 Civil Writ Petition No. 11412 of 2004(O&M) contrary to law does not confer any right upon any person for similar treatment. It is equally true that a landowner whose land has been acquired for public purpose by following the prescribed procedure cannot claim as a matter of right for release of his/her land from acquisition but where the State Government exercises its power under Section 48 of the Act for withdrawal from acquisition in respect of a particular land, the landowners who are similarly situated have right of similar treatment by the State Government. Equality of citizens' rights is one of the fundamental pillars on which edifice of rule of law rests. All actions of the State have to be fair and for legitimate reasons.

The Government has obligation of acting with substantial fairness and consistency in considering the representations of the landowners for withdrawal from acquisition whose lands have been acquired under the same acquisition proceedings. The State Government cannot pick and choose some landowners and release their land from acquisition and deny the same benefit to other landowners by creating artificial distinction. Passing different orders in exercise of its power under Section 48 of the Act in respect of persons similarly situated relating to same acquisition proceedings and for same public purpose is definitely violative of Article 14 of the Constitution and must be held to be discriminatory." 15 Civil Writ Petition No. 11412 of 2004(O&M)

At the time of arguments Shri Kamal Sehgal, Addl. A.G. Haryana has failed to show any distinguished feature on the basis of which relief can be declined to the petitioners. The petitioners are the poor farmers and their land and buildings have been put under acquisition, whereas, by releasing vacant land, about 100 acres, relief has been granted to the other land owners who were similarly situated. Not only as above, as per policy of the State Government dated 26.10.2007 residential houses cannot be put under acquisition whereas in the present case, the buildings were also ordered to be acquired."

Learned counsel for the petitioners could not show as to why the respondents were discriminated in the matter of release of the acquired land. Thus, the ratio of the judgment in Hari Ram v. State of Haryana (1983) 1 SCC 193 is squarely applicable in the instant case.

Although, the High Court has not made the issue of non-compliance of the provisions of National Capital Region Planning Board Act, 1985 as the ground for quashing the acquisition proceedings, we are satisfied that in the absence of any exemption granted by the Competent Authority, the petitioners were bound to comply with the provisions of that Act and their failure to do so has the effect of vitiating the acquisition proceedings.

With the above observations, the special leave petition is dismissed.

| (Parveen Kr.Chawla)
| Court Master
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| | (Phoolan Wati Arora)
| | Court Master
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