

ITEM NO.14

COURT NO.11

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)...../2011

(CC 4753/2011)

(From the judgement and order dated 14/06/2010 in CWP No.
9611/2009 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF HARYANA & ANR

Petitioner(s)

VERSUS

JAGTAR SINGH & ANR

Respondent(s)

With I.A.1 (C/delay in filing SLP and office report)

Date: 18/03/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Ms. Pragati Neekhara, Adv.

For Respondent(s)

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

This petition is directed against the order of the Punjab and Haryana High Court whereby the writ petition filed by the respondents for quashing the acquisition of their land was allowed. The petitioners have also filed an application for condonation of 112 days' delay.

We have heard learned counsel for the petitioners and perused the record. The explanation given by the petitioners for delayed filing of the petition is satisfactory. Therefore, the delay is condoned.

However, we are convinced that the High Court did not commit any error by quashing the acquisition of the respondents' land for

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a public purpose i.e. setting up of the sewerage treatment plant.

Admittedly, the land of the respondents is within the abadi (residential area) of Samalkha. Therefore, there was no justification to acquire the land for setting up of the sewerage treatment plant. In any case, there was no such emergency which

could justify invoking of Section 17(1) read with Section 17(2)(c) and 17(4) of the Land Acquisition Act, 1894 (for short, "the Act")

and to exclude the application of Section 5-A of the Act.
Court rightly relied upon the judgments of this Court in Union of
India v. Mukesh Hans (2004) 8 SCC 14, Hindustan
Corporation Limited v. Darius Shapur Chenai (2005) 7 SCC 627 and
Essco Fabs (P) Ltd. v. State of Haryana (2009) 2 SCC 377 for taking
the view that the petitioners were not justified in invoking the
urgency provisions. Reference in this connection may also be made
to the judgment of this Court in Babu Ram v. State of Haryana
(2009) 10 SCC 115 whereby the invoking of urgency clause enshrined
in Section 17(1) read with Section 17(4) for the acquisition of
land for construction of sewerage treatment plant was held to be
legally impermissible.

We also agree with the High Court that the petitioners had
discriminated the respondents in the matter of release of land and
this was contrary to the law laid down by this Court in Hari Ram v.
State of Haryana (2010) 3 SCC 621.

The special leave petition is accordingly dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master