

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) No(s).20195/2004

(From the judgement and order dated 21/05/2004 in CWP No. 6733/2004 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

JOGINDER SINGH & ANR. Petitioner(s)

VERSUS

STATE OF HARYANA & ORS. Respondent(s)

(With office report) (For final disposal)

WITH SLP(C) NO. 24053 of 2004

(With appln.(s) for exemption from filing c/c of the impugned judgment, permission to place addl. documents on record, prayer for interim relief and office report) (For final disposal)

SLP(C) NO. 25902 of 2004

(With appln.(s) for exemption from filing c/c of the impugned judgment, permission to place addl. documents on record, prayer for interim relief and office report) (For final disposal)

SLP(C) NO. 442 of 2005

(With prayer for interim relief & office report)(For final disposal)

SLP(C) NO. 8989 of 2009

(With appln.(s) for c/delay in filing SLP and office report) (For final disposal)

SLP(C) NO. 913 of 2005

(With prayer for interim relief & office report)(For final disposal)

SLP(C) NO. 1013 of 2005

(With appln.(s) for permission to place addl. documents on record prayer for interim relief and office report) (For final disposal)

SLP(C) NO. 1854 of 2005

(With prayer for interim relief & office report)(For final disposal)

SLP(C) NO. 1856 of 2005

(With prayer for interim relief & office report)(For final disposal)

Date: 11/01/2010 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Mr. Anil Kshetarpal, Adv.
Mr. Monohar Singh Bakshi, Adv.
Mr. Debasis Misra, Adv.

Mr. Rohit Arya, Sr. Adv.
Mr. Nitin Gaur, Adv.
Mr. Vijay Hansaria, Sr. Adv.
Mr. Aseem Mehrotra, Adv.
Mr. Abhijat P. Medh, Adv.

....2.

ITEM NO.201 COURT NO.5 DATED 11/1/2010contd.

For Respondent(s) Mr. Manjit Singh, Addl.AG
Mr. Kamal Mohan Gupta, Adv.

Mr. Sanjay Singh, Adv.
Mr. Sushank Kumar, Adv.
Mr. Ugra Shankar Prasad, Adv.

Mr. D.P. Singh, Adv.
Mr. Sanjay Jain, Adv.

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

Leave granted.

In terms of the signed order, we allow these appeals and set aside the impugned orders and restore the writ petitions to the file of the High Court. We request the High Court to consider and dispose them in accordance with law.

(Ravi P. Verma) (M.S. Negi)
Court Master Court Master
[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 272 OF 2010
[Arising out of SLP(C) No.20195/2004]

JOGINDER SINGH & ANR. APPELLANT(S)

Versus

STATE OF HARYANA & ORS. RESPONDENT(S)

WITH
C.A. NO. 273 OF 2010 [Arising out of SLP(C) NO. 24053/2004]
C.A. NO. 274 OF 2010 [Arising out of SLP(C) NO. 25902/2004]
C.A. NO. 275 OF 2010 [Arising out of SLP(C) NO. 442/2005]
C.A. NO. 277 OF 2010 [Arising out of SLP(C) NO. 913/2005]
C.A. NO. 278 OF 2010 [Arising out of SLP(C) NO. 1013/2005]
C.A. NO. 278 OF 2010 [Arising out of SLP(C) NO. 1854/2005]
C.A. NO. 280 OF 2010 [Arising out of SLP(C) NO. 1856/2005]
C.A. NO. 276 OF 2010 [Arising out of SLP(C) NO. 8989/2009]

O R D E R

Leave granted.

2. Certain lands in village Mundo and Tejli were sought to be acquired for development and utilisation for residential and commercial purposes for the benefit of Haryana Urban Development Authority by the State Government vide preliminary notification dated 2.5.2001 and final notification dated 30.4.2002. The appellants herein, who are the owners of some of the acquired lands, filed writ petitions challenging the said notifications issued under Section 4(1) and 6 of the Land Acquisition Act 1894 ('the Act' for short). Other land owners similarly challenged

the said acquisition. The High Court considered the case of one of the land owners in Sher Singh Vs. State of Haryana, CWP No.17068/2002 decided on 21.5.2004. After consideration, it dismissed the petition as having no merit. When the writ petitions of the appellants came up for consideration, subsequently on 16.8.2004, the High Court, by the impugned orders dismissed the petitions with an observation that it was satisfied that the controversy raised in the writ petitions were squarely covered by the decision rendered in Sher Singh. In some cases, the High Court observed that the controversy raised was the same as in Sher Singh. The said orders are challenged in these appeals.

3. Learned counsel for the appellants submitted that in regard to acquisition for HUDA certain guidelines were being followed for exclusion of properties from acquisition if there were constructions in the acquired properties. It is their specific case that there were structures in their lands and that their lands were eligible for deletion/withdrawal from acquisition under the existing guidelines and the High Court had failed to consider their contentions in that behalf. It is submitted that insofar as the case of Sher Singh is concerned, the grievance was3.

different, relating to objections under Section 5A of the Act. Further Sher Singh was decided on facts with the following observation:

"It may be permissible to release certain lands which do not interfere with the plan for the development of the area. In the absence of material particulars showing discrimination, it is not possible to record a

final conclusion."

4. It was submitted that the question whether the land had to be released with reference to the existing development/structures was considered only with reference to the facts of that case and not in regard to other cases. The appellants, therefore, contend that their petitions could not have been dismissed by merely following the decision in Sher Singh as the decision in Sher Singh rested on the findings recorded by the Court on several questions of facts which were special to that case.

5. On a careful consideration, we agree with the contentions of the appellants. In fact, the appellants have produced some documents to show that structures were existing in their acquired lands and that the inspecting committee had recommended that their lands should not be acquired. However, this material has not been considered.
.....4.

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We are of the view that the High Court ought to have considered each case of the appellants at least briefly with reference to the facts, that is, whether there were any structures, whether the inspecting committee had recommended for not proceeding with the acquisition or for excluding their properties from acquisition; and whether the Director of Urban Estates had considered whether release of land in each of these cases would disturb the planning/development. While there may not be need for High Court to examine and decide questions of facts, it has to at least satisfy itself that there was proper or adequate consideration of the case by the Director, Urban Estates.

6. In fact, when these matters came up on 9.5.2005, the learned counsel for the State sought time to seek

instructions on the factual aspects of these cases. On 30.3.2009, this Court directed the relevant records to be made available. They were not made available. The High Court, we feel, will be in a better position to examine some of these factual aspects, of course within the limitations of a writ proceeding. It will also be necessary to find out whether the structures were all prior to preliminary notification to claim the benefit of the release guidelines. In the circumstances, there is need for remand.
.....5.

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7. We, therefore, allow these appeals and set aside the impugned orders and restore the writ petitions to the file of the High Court. We request the High Court to consider and dispose them in accordance with law.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
January 11, 2010.

.....J.
(K.S. RADHAKRISHNAN)