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ITEM NO.38

COURT NO.3

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) No(s).20055/2013
(From the judgement and order dated 13/03/2013 in CWP No.24014/2011 of The
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

JAI NARYANA @ JAI BHAGWAN & ORS.

Petitioner(s)

VERSUS

THE STATE OF HARYANA & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T., permission to file additional
documents and prayer for interim relief)

with IA No.2 (for permission to file additional documents)

Date: 12/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s)

Mr. P.S. Narasimha, Sr. Adv.
Mr. S.S. shamsbery, Adv.
Mr. Bhakti Vardhan, Adv.
Mr. Shubhashis R. Soren, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against order dated 13.3.2013 by which the Division Bench of the Punjab and Haryana High Court dismissed the writ petition filed by the petitioners for quashing the acquisition of their land.

We have heard Shri Narasimha, learned senior counsel for the petitioners and perused the record.

We are, prima facie, satisfied that the order under challenge is liable to be set aside on the ground of non-consideration of most of the grounds taken by the petitioners in support of their challenge to the acquisition proceedings which, according to the learned senior counsel, were pressed during the course of hearing.

The record of the case shows that notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was issued for the acquisition of 1407 acres land in various villages of district Gurgaon. This included 9 canals 3 marlas land owned by the petitioners. They filed objections under Section 5A(2) of the Act but without considering the same the Land Acquisition Collector submitted report under Section 5A(2). Thereafter, the State Government issued declaration dated 31.5.2010 under Section 6(1) of the Act in respect of 850.1075 acres land. The Land Acquisition Collector passed award dated 22.12.2011 in respect of 132 acres land.

Shri Narasimha argued that the acquisition was not for a public purpose but for a purely private purpose, i.e., to assist the builders to grab the property of the farmers and this is the reason why award was passed only in respect of 132 acres land whereas 1407 acres land was notified under Section 4(1) of the Act. Learned senior counsel further argued that the acquisition is vitiated by malafides and discrimination inasmuch as the land of influential persons was either left out from the process of acquisition or released at the stages of issue of declaration under Section 6(1) of the Act or passing of the award.

Issue notice, returnable in eight weeks, to the respondents to show cause as to why leave may not be granted, the impugned order may not be set aside and the acquisition of the petitioners' land may

not be quashed. Dasti, in addition, is permitted.

Issue notice on the petitioners' prayer for interim relief, returnable in eight weeks. Dasti, in addition, is permitted.

In the meanwhile, status quo regarding possession of the petitioners' land, as it is obtaining today, shall be maintained. This would necessarily mean that if the petitioners are in physical possession of the land, then they shall not alter its present character or alienate the same to any other person in any manner whatsoever. If, on the other hand, possession has already been taken by the Haryana Urban Development Authority, then it shall not change the character of the land or alienate the same to any other person in any manner whatsoever or shall not create third party rights.

It shall be the petitioners' duty to serve the respondents before the next date of hearing failing which the interim order passed today shall stand automatically vacated.

Copies of this order be served upon the respondents along with the notice to enable them to file affidavits to controvert the averments contained in the writ petition and the special leave petition and also explain their position in the context of the submissions made by the learned senior counsel.

The petitioners are given liberty to file additional affidavit and documents within six weeks from today

| (Parveen Kr.Chawla)
| Court Master
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| | (Usha Sharma)
| | Court Master
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