

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

COCP No.2427 of 2015

Date of decision : 09.08.2017

Balvir Kaur

.....Petitioner

Versus

Mohan Singh and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Satbir Gill, Advocate for petitioner.

Mr. Rajesh Sheoran, Advocate for respondent No.2.

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DAYA CHAUDHARY, J.

Petitioner Balvir Kaur approached this Court by way of filing CWP No.652 of 2011 with the prayer to quash notifications dated 05.01.2008 and 14.01.2009 issued under Sections 4 and 6 respectively, of the Land Acquisition Act, 1894 (here-in-after referred to as 'the Act'). Vide aforesaid notifications, a vast track of land including the land of the petitioner was put under acquisition.

It was contended by learned counsel for the petitioner that the construction raised by the petitioner was in existence at the time of issuance of notification under Section 4 of the Act. As per the policy of the State Government dated 26.10.2007, constructed buildings could not be put under

acquisition. It was also the claim of the petitioner that the relief was declined to the petitioner, whereas said relief was granted to other similarly situated land owners.

In response to the notice of motion, reply was filed on behalf of the respondents. Relevant portion of the reply is reproduced as under:-

“5. That the petitioner and other interested persons, who filed objections u/s-5A of the Act within prescribed period of limitation, were properly heard. After giving full opportunity of hearing, the then Land Acquisition Collector made a report on individual objections and sent the report with recommendations to the Government for final decision. Almost all the constructed areas have been left from the acquisition except those existed in the green belt area or the Sector roads. As per report u/s-5A of the Act, there was a house measuring 433 square yards in land in dispute of the petitioner at the time of notification u/s-4 of the Act. After taking the decision, the Government ordered for the declaration u/s-6 of the Act for rest of the land. The declaration u/s-6 of the Act made vide No. LAC(H)-NTLA/2009/465 on 14.01.2009 accordingly.”

Ultimately, the case was dismissed with the following observations:-

“In the written statement, it is specifically stated that after taking note of the objections filed under Section 5-A of the Act, land measuring 433 square yards under construction along with proportionate vacant area was kept out of acquisition. The land which was not under construction has been ordered to be acquired because it falls within the green belt area and the Sector roads.

If that is so, at this stage we feel no interference is required to be made at the instance of the petitioner.

Dismissed.”

Said petition was dismissed by considering the averments made

in the written statement filed by the respondents and by taking note of the fact that the objections were filed under Section 5-A of the Act and land measuring 433 square yards under construction along with proportionate vacant area was kept out of acquisition as also that the land, which was not under construction, had been ordered to be acquired because it falls within the green belt area and the Sector roads.

Subsequently, the petitioner has filed the present contempt petition under Section 12 of the Contempt of Courts Act, for punishing the respondent/contemnor for misrepresenting the facts while filing written statement in the writ petition to the effect that land measuring 433 square yards under construction along with proportionate vacant area was kept out of acquisition and the part of the house, which was not under construction, was ordered to be acquired as it was within the green belt area and the Sector roads.

Learned counsel for the petitioner submits that due to mentioning of wrong facts in the written statement, the writ petition was got dismissed. Learned counsel also submits that the respondent-authorities did not supply the correct information with regard to the layout plan of the Sector and layout plan dated 13.12.2013 was filed just to harass the petitioner. Learned counsel further submits that as per claim of the petitioner in the writ petition, the prayer was for releasing total area of her house *i.e.* 3 Kanal 8 Marla, whereas the respondent took a stand that land measuring 433 square yards under construction along with proportionate vacant area was kept out of acquisition. It was not under construction and it

was ordered to be acquired as it was within green belt area of the Sector roads. Learned counsel further submits that subsequently, the petitioner came to know that there was no green belt or Sector roads, which was existing in the part of the house acquired by the respondents.

In the contempt petition, reply has been filed by way of affidavit of District Town Planner, Sirsa. During pendency of the contempt petition, additional affidavits were also filed which are on record.

Learned counsel for the respondents submits that CWP No.652 of 2011 was filed by the petitioner, which was dismissed vide order dated 27.07.2011 on the ground that as per the policy of the State Government, the constructed area along with proportionate open space had already been left out of the acquisition proceedings. Thereafter, petitioner filed CWP No.23621 of 2014 on the ground that constructed area of the petitioner in the layout plan of Sector 21, Sirsa was prepared by the office of District Town Planner, Sirsa and that area was wrongly depicted. The remaining area measuring 02 Kanal approximately was not released as it was falling within green belt area. The mistake was rectified and ultimately location of house of the petitioner in the layout plan was finally got approved from the competent authority vide drawing dated 08.04.2015. Said writ petition was also dismissed by this Court vide order dated 03.08.2015. Learned counsel for the State also submits that said writ petition was dismissed on the ground that necessary relief as claimed in the writ petition has been granted to petitioner and the present petition has become infructuous. Learned State counsel also submits that petitioner had himself stated at the Bar that

necessary relief as claimed in the petition was granted and the grievance of the petitioner was redressed.

Heard arguments of learned counsel for the parties and have also perused the documents available on the file including the orders passed in both the writ petitions filed by the petitioner.

Petitioner has filed the contempt petition on the ground of misrepresentation of facts to the effect that land measuring 433 square yards under construction along with proportionate area was kept out from acquisition and the part of the house, which was not under construction, has been ordered to be acquired, as it was falling within green belt and the Sector roads. As per the stand of the respondents, the constructed portion of the petitioner measuring 433 square yards along with proportionate area was left out from acquisition under Section 5-A of the Act. The constructed area, which was falling in green belt and Sector roads were ordered to be acquired. There was no change in the layout plan for deleting green belt in the Sector made by the Town Planner Department. The petitioner and other persons filed objections under Section 5-A of the Act and after giving full opportunity of hearing, the decision was taken. Whole of the constructed area was left out from the acquisition except the area that existed in the green belt area or Sector roads. As far as house of petitioner was concerned, she had built a house over the land measuring 433 yards. In the reply filed in CWP No.652 of 2011, the inadvertent mistake of wrong location of constructed area was got corrected after getting representation from petitioner and necessary amendment was made in the layout plan which was

approved vide drawing dated 08.04.2015. Said writ petition was disposed of as being infructuous. Order dated 03.08.2015 passed in CWP No.23621 of 2014 is also relevant to be reproduced for resolving the controversy in hand and same is as under:-

“Ld. counsel for the petitioner submits that the necessary relief as claimed in the writ petition has been granted to the petitioner and as such, the present petition has become infructuous.

Disposed of as infructuous.”

It is apparent from said order that it was the petitioner himself, who submitted before this Court that necessary relief as claimed in the petition was granted to the petitioner and the writ petition had rendered infructuous. It cannot be said that the petitioner has been aggrieved by the action of the respondents in any manner. In the contempt petition, it is to be made out by the petitioner as to how there is willful disobedience of the order passed in his favour or non-compliance of the order is there. It has not been made out by learned counsel for the petitioner as to how this contempt petition is maintainable when the petitioner herself was satisfied and has even made a statement in this regard. It was simply stated that wrong statement was made and respondents be punished under the Contempt of Courts Act. There was an inadvertent mistake in the written statement and subsequently, it was corrected, which does not amount to contempt of the orders of the Court or an act for which the respondents be held guilty for making wrong statement or misrepresenting the facts of the case.

Accordingly, no case is made out to initiate contempt proceedings against the respondents. In case the petitioner has been harassed in any manner, she is at liberty to avail the appropriate remedy available under law.

The contempt petition is accordingly dismissed.

09.08.2017

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No