

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Case No.: **CWP No.8557 of 2004**

Date of Decision: July 31, 2006

Shanti Sneh Mandir Vaishno Darbar Dharmarth Trust (Registered), Mansa Devi Complex, Sector 5, Panchkula, through its General Secretary, Shri Ashok Kumar Sood.

...Petitioners

versus

State of Haryana and others

...Respondents

**Coram: Hon'ble Mr. Justice Ashutosh Mohunta.
Hon'ble Mrs. Justice Nirmal Yadav.**

Present: Mr. S.D.Sharma, Senior Advocate with
Ms. Neeraj Sharma, Advocate,
for the petitioner.

Mr. Ashish Kapoor, Addl.A.G., Haryana.

Mr. Aman Chaudhary, Advocate
for respondent No. 3.

ASHUTOSH MOHUNTA, J.

The prayer made in this petition under Articles 226/227 is to the issuance of a writ in the nature of certiorari quashing notification dated 16.3.1999 (Annexure P-3) and the notification dated 15.3.2000 (Annexure P-4), issued under Sections 4 and 6, respectively, of the Land Acquisition Act, 1894 (for short 'the Act'), whereby the land of the petitioner-Trust, has been acquired, as well as the award dated 9.10.2003 (Annexure P-5) awarding compensation to the petitioner-Trust in lieu of the acquisition of the land belonging to it. A prayer for issuance of a writ in the nature of

mandamus has also been made directing the respondents to release the land under acquisition bearing Hadbast No. 377 comprising in Khasra No. 71/27 Min. situated in village Bhainsa Tibba, Tehsil and District Panchkula.

Shortly, put, the case of the petitioner-Trust is that the land in dispute measuring 3 Kanals 10 Marlas was purchased by late Rev. Mata Karamwati Sanyasin for a sum of Rs. 10,000/- vide sale deed dated 1.1.1981 and a temple was constructed thereon. Notification dated 10.1.1983 under Section 4 of the Act was issued whereby the said land was proposed to be acquired. Declaration under Section 6 of the Act was also issued on 10.1.1983. However, with the intervention of the respectables of the area, the said land was released from acquisition vide notification dated 21.3.1984. Rev. Mata Karamwati died on 21.8.2000 and a Smadh was constructed in the premises adjoining the temple and the property in dispute is being managed by the petitioner-Trust.

Now it is the case of the petitioner-Trust that another notification dated 16.3.1999 (Annexure P-3) under Section 4 of the Act was issued whereby the State of Haryana proposed to acquire 203.62 acres of land, including the land owned by the petitioner-Trust. The declaration under Section 6 of the Act was issued vide notification dated 15.3.2000 (Annexure P-4). The award under Section 12 of the Act was also pronounced on 9.10.2003 (Annexure P-5). It is the case of the petitioner-Trust that the impugned notifications under Section 4 and 6 of the Act have been issued without any notice to it and also without any publication in the newspapers in respect thereof. It is only in March, 2004 that the Trust came to know that the land belonging to it had been acquired without adopting the legal procedure. Now in the present petition a prayer has been made to the

quashment of notifications dated 16.3.1999 (Annexure P-3) and 15.3.2000 (Annexure P-4) as well as the award dated 9.10.2003(Annexure P-5).

A detailed written statement has been filed to controvert averments made in the writ petition by pleading therein that proper legal procedure had been adopted before acquiring the land in dispute. The notification under Section 4 of the Act was published in two daily newspapers i.e. “Jansatta” (Hindi) and the “Indian Express” (English) dated 20.3.1999. The proclamation with regard to the acquisition proceedings was made in the locality on 17.3.1999 vide rapat No. 249. The notification under Section 6 of the Act was also published in daily newspapers i.e. “The Hindu” (English) dated 25.3.2000 and “Arth Parkash” (Hindi) dated 24.3.2000. The proclamation of the said notification was also made in the locality on 23.3.2000 by beating of drums and the entry of the same was also made in the rapat Roznamcha of the Halqa Patwari on 23.3.2000 vide rapat No. 231. It has further been pleaded that even the petitioner filed objections under Section 5-A of the Act but did not appear it at the time of hearing. The landowners/interested persons who filed objections and appeared before the Land Acquisition Collector between 1.2.2000 to 4.2.2000 were duly heard. Though nobody appeared on behalf of the petitioner-Trust, yet the constructed area of the land in dispute has been released from acquisition after considering the objections filed under Section 5-A of the Act by the petitioner. Lastly, it has been stated that now the award has been announced on 9.10.2003 and the possession of the land in dispute has been handed over to the beneficiary Department HUDA (respondent No.3) on the same day. When all this has been done, the petitioner has moved the present writ petition on 31.3.2004 and obtained

the order of stay with regard to dispossession from this Court.

The petitioner filed replication to the written statement filed on behalf of respondent Nos. 1 and 2, wherein averments made in the petition have reiterated. However, it is the admitted position that it had filed the objections under Section 5-A of the Act on 4.8.2003, but it has been contended that it was with regard to some other land measuring 2 Kanals situated in the revenue estate of village Saketri Hadbast No. 376 and not with regard to the land in dispute.

We have heard the learned counsel for the parties and examined the case file meticulously.

Undisputedly, the notification under Section 4 of the Act (Annexure P-3) was published in the official gazette on 16.3.1999 and immediately thereafter it was published in two daily newspapers. The declaration under Section 6 of the Act was made vide notification dated 15.3.2000 (Annexure P-4) and this notification was also published in two daily newspapers as per the legal requirement. Proclamations with regard to both the notifications was made in the locality by beat of drums as well. Even the award under Section 12 of the Act was announced on 9.10.2003. Admittedly, the petitioner had filed objections under Section 5-A of the Act. However, it has been pleaded in the replication that it was with regard to some other land and not with regard to the land in dispute. Be that as it may, undisputedly, the lands belonging to the petitioner-Trust falling in Hadbast No. 376 as well as in Hadbast No. 377, respectively situated in the revenue estates of village Saketri and village Bhainsa Tibba were acquired by the same notifications issued under Section 4 and 6 of the Act. Thus, the petitioner cannot plead that the proceedings with regard to the acquisition of

land in dispute did not come to its notice earlier and it was only in March, 2004 that the Trust came to know with regard to the acquisition of the land in dispute. The award with regard to payment of compensation stood announced on 9.10.2003 and the possession of the land has been delivered to the HUDA (respondent No. 3) on the same day. In such a situation, reverse gear with regard to the acquisition of the land in dispute cannot be made at this stage.

Consequently, there is no merit in this petition. It is, accordingly, dismissed. However, there shall be no order as to costs.

(ASHUTOSH MOHUNTA)
JUDGE

July 31, 2006
Gulati

(NIRMAL YADAV)
JUDGE