

DHARAM PAL GOEL (DEAD) BY LRS.

v.

STATE OF HARYANA AND ORS.

JANUARY 13, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Land Acquisition Act, 1894 :—Land acquisition—Public purpose—Denotification of acquired land—Permissibility of—Appellant-landowner purchased land and constructed school thereon—Initiation of proceedings for acquisition of land for a public purpose viz. development of sectors—Writ filed by appellant—His contention that the acquisition of the land for the public purpose was not correct since he intended to serve another public purpose, namely establishing a school for the children of the locality dismissed—Appeal—Inspection directed by Supreme Court—Report—Report indicating that release of part land not feasible because of creation of Buffer zone—Held in such circumstances direction for release of part land was not expedient.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 317 of 1997.

From the Judgment and Order dated 25.8.93 of the Punjab & Haryana High Court in W.P. No. 2960 of 1990.

P.C. Jain and Ms. Indu Goswamy for the Appellant.

Prem Malhotra for the Respondents.

The following Order of the Court was delivered :

Leave granted. This appeal by special leave arises from the judgment of the Punjab High Court, made on September 25, 1993 in Writ Petition No. 2960 of 1990. The original appellant, Dharam Pal Goel (hereinafter referred to as the 'appellant') had purchased 1 bigha, 12 biswas of land in Khasra No. 718/2/2 Min and 714/1/1 Min situated in the revenue estate of village Khandsa, Tahsil and District Gurgaon. The appellant constructed a school building in October 1985 on the land. The respondents has issued notification on January 30, 1989 under Section 4(1) of the Land Acquisition Act (for short, the 'Act') for public purpose, namely, for development of the Sectors. Declaration under Section 6 of the Act was published on

A January 25, 1990. Thereafter the appellant filed a writ petition in the High Court contending that the acquisition of the land for the public purpose was not correct since the appellant intended to serve another public purpose, namely, establishing a school for the children of the locality. The High Court dismissed the writ petition. Thus, this appeal by special leave.

B When the matter had come up on May 10, 1996 for hearing, this Court directed that an Officer to be named by the respondents would make an inspection and submit a detailed report as to the actual land needed for the school building and for playground and to ascertain to what extent reasonable land is required to be released for the purpose of school and playground causing no disturbance to the scheme already evolved. In furtherance thereof, an inspection was made and on the basis thereof a decision was taken by the Director of Urban Estates, Haryana which has been communicated to the learned counsel for the respondents.

D The report relevant for the purpose runs thus :

E ".... the width of the green belt along the Jaipur-Delhi national highway is 50 m and non-buildable one were to be preserved then 617 sq. yards and land coming under the plan is also part of the released land need to be acquired. The school falls immediately by the side of the national highway, which has very fast moving traffic. The purpose of keeping the restricted zone along the school roads is to provide a service lane besides other facilities and for undertaking tree plantation to act a buffer to contain pollution caused by the vehicular traffic. Leaving any more area now would effect the alignment of service road that may have to be built subsequently for regulated traffic flow along the busy national highway. Since containing 2066 sq. yards has already been released this results in green belt/non-buildable zone of 135 wide along national highway instead of 165' as per the development plan in the larger interest, no more land should be considered for release. This is being suggested despite the fact that for a primary school, HUDA earmarks min. 1 acre land and that normative position is not being recommended to in view of the location of the appellants site being next to national highway."

H In the light of the extract of the report, that only question for consideration is : whether the land purchased by the appellant serves any

public purpose and is, therefore, required to be denotified from the acquisition? It is seen that the report indicates that the school is situated in between the National Highway and adjacent to the proposed buffer road. The object of locating a buffer road is to facilitate plantation of the trees to contain pollution caused by the vehicular traffic. Thought the alignment needs 165' of land in view of the green belt or non-buildable area, 135' wide road has been set apart. The rest of the land requires to be acquired and, therefore, that part of the land cannot be released from acquisition. In view of the fact that the officers of the respondents have inspected the place and given a detailed report, we find that it may not be expedient to give any direction to the respondents to delete a part of the land belonging to the appellant.

The appeal is accordingly dismissed. No costs.

T.N.A.

appeal dismissed.