

PETITIONER:
DHARAM PAL GOEL (D) BY LRS.

Vs.

RESPONDENT:
STATE OF HARYANA & ORS.

DATE OF JUDGMENT: 13/01/1997

BENCH:
K. RAMASWAMY, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

This appeal by special leave arises from the judgment of the Punjab & Haryana High Court, made on September 25, 1993 in Writ Petition No.2960 of 1990. The original appellant, Dharam Pal Goel (herein after 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 had 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 January 25, 1990. Thereafter, appellant filed a writ petition in the High Court contending that the acquisition of the land 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 law.

When the matter had come up on May 10, 1996 for hearing, the 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 school building and for playground and to ascertain to what extent responsible land is required to be released for the purpose of school and playground causing no disturbance to the scheme already evolved. In furtherance thereof a decision was taken by the Director of Urban Estates, Haryana which has been communicated to the learned counsel for the respondents.

The report relevant for the purpose runs thus |

"..... the width of the greed 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 greed 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 that normative position is not being recommended to in view of the location of the appellants site being next to national highway."

In the light of the extract of the report, the 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 is to facilitate plantation of the trees to contain pollution caused by the vehicular traffic. Though the alignment needs 165' of 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 any direction to the respondents to delete a part of the land belonging to the appellant.

The appeal is accordingly, dismissed. No costs.