

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 14077 of 1992 (O&M)

Reserved on 18.8.2023

Date of Decision: 22.8.2023

M/s United Oil Mill Machinery and Spares Pvt. Ltd.

.....Petitioner

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. Amit Jain, Senior Advocate assisted by
Mr. Chetan Salathia, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner seeks quashing of the order dated 20.3.1991 (Annexure P-10-A). In addition, the petitioner also seeks relief that the acquisition proceedings, as became drawn in respect of the petition land, to be thus, in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013), hence declared to become lapsed.

2. When the instant writ petition came up for hearing before this Court on 13.12.1993, this Court made thereons the hereinafter directions:-

“Learned counsel for the petitioner submits that the land in question is being acquired for constructing industrial sheds. Learned counsel further submits that against the impugned notification, two petitions numbering 10023/89 and 966/90 already stand admitted.

Admitted. To be listed for hearing with CWP No. 10023 of 1989 within one year.

Status quo with respect to possession be maintained.”

3. The learned senior counsel for the petitioner has challenged the award (supra), as became drawn in terms of Section 11 of the Land Acquisition Act, 1894 (for short ‘the Act of 1894’) inter alia, on the hereinafter grounds.

(a) That no notice was given to the petitioner company with respect to the acquisition proceedings, and, that they never acquired knowledge about the issuance of notification under Section 4 and 6 of the Act of 1894.

(b) That acquisition would result in closing down of factory of the petitioner.

(c) That the petitioners are entitled to obtain relief for denotification of the acquired lands, as in respect of the lands acquired qua M/s Beco Engineering Private Limited, qua M/s Kelvinator of India, and, qua M/s Indo American Electrical, the respondent concerned, has released the said acquired lands. Therefore, the learned senior counsel for the petitioner, has argued, that since the acquired lands of the petitioner, are similarly situated to the lands of the entities(supra), thereby for ensuring parity of treatment therewith, besides for ensuring that there is no arbitrariness perpetrated, upon the petitioner, that likewise the petitioner’s land be denotified from acquisition.

(d) That in terms of verdict drawn by this Court in CWP No. 172 of 1991, titled as ***Ascons (Delhi) Pvt. Ltd. 24 Mile Stone, Faridabad versus State of Haryana and others***, whereby this Court had ordered for return of the therein petitioners land, thereby for ensuring that parity of treatment therewith becomes

accorded to the petitioner, therefore, he thus argues, that similar thereto treatment be assigned to the present petitioner, inasmuch as, the petition lands be also ordered to be released from acquisition.

Reasons for rejecting the above submissions

4. Initially the challenged award was made in the year 1991, thus through recourse being made to the Act of 1894. However, the challenge thereto has been made after more than one and half year elapsing therefrom. The above belated challenge to the award (supra) does cast an embargo, upon the petitioner hence to make a valid challenge thereto.

5. The reason for drawing the above inference becomes sparked from the factum, that upon visible delay and latches evidently surging-forth, thereupon the doctrine of acquiescence, thus concomitantly gets awakened. The further sequel thereof, is that, the said belated challenge also results in the estopping principles of abandonments, and, waivers, thus becoming attracted against the petitioner/entity concerned. In the above regard, it is apt to place reliance, upon, judgment(s) made by the Hon'ble Apex Court, respectively in cases titled as ***Aflatoon and others versus Lt. Governor of Delhi 1974 AIR (SC) 2077***, in ***M/s Star Wire (India) Ltd. Versus The State of Haryana and others 1996(11) SCC 698***, in ***Swaika Properties Pvt. Ltd. versus State of Rajasthan and others 2008 AIR (SC) 1994***, and, in ***V.Chandrasekaran and another versus Administrative Officer and others 2012(12) SCC 133***. The relevant paragraph(s), as carried in ***V.Chandrasekaran's*** case (supra), are extracted hereinafter. The imperative legal principles, as can be culled therefrom are, that, upon acquisition proceedings becoming launched under the Act of 1894, thereby there is complete divestment of right, title and interest of the estate holders over the

acquired lands. Contrarily, there is complete vestment of right, title and interest over the acquired lands in the acquiring authority concerned.

“16. It is a settled legal proposition, that once the land is vested in the State, free from all encumbrances, it cannot be divested and proceedings under the Act would not lapse, even if an award is not made within the statutorily stipulated period. (Vide: *Avadh Behari Yadav v. State of Bihar & Ors.*, (1995) 6 SCC 31; *U.P. Jal Nigam v. Kalra Properties (P) Ltd. (Supra)*; *Allahabad Development Authority v. Nasiruzzaman & Ors.*, 1997(1) RCR (Civil) 25 ; (1996) 6 SCC 424, *M. Ramalinga Thevar v. State of Tamil Nadu & Ors.*, 2000(2) R.C.R. (Civil) 726 : (2000) 4 SCC 322; and *Government of Andhra Pradesh v. Syed Akbar & Ors.*, AIR 2005 SC 492).

17. The said land, once acquired, cannot be restored to the tenure holders/persons-interested, even if it is not used for the purpose for which it was so acquired, or for any other purpose either. The proceedings cannot be withdrawn/abandoned under the provisions of [Section 48](#) of the Act, or under [Section 21](#) of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. (Vide: *State of Madhya Pradesh v. V.P. Sharma*, AIR 1966 SC 1593; *Lt. Governor of Himachal Pradesh & Anr. v. Shri Avinash Sharma*, AIR 1970 SC 1576; *Satendra Prasad Jain v. State of U.P. & Ors.*, AIR 1993(3) R.R.R. 597; *Rajasthan Housing Board & Ors. v. Shri Kishan & Ors.*, 1993(1) R.R.R. 635: (1993) 2 SCC 84 and *Dedicated Freight Corridor Corporation of India v. Subodh Singh & Ors.*, 2011(5) R.C.R. (Civil) 217 : (2011) 11 SCC 100).

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22. In view of the above, the law can be crystallized to mean, that once the land is acquired and it vests in the State, free from all encumbrances, it is not the concern of the land owner, whether the land is being used for the purpose for which it was acquired or for any other purpose. He becomes persona non-grata once the land vests in the State. He has a right to only

receive compensation for the same, unless the acquisition proceeding is itself challenged. The State neither has the requisite power to reconvey the land to the person- interested, nor can such person claim any right of restitution on any ground, whatsoever, unless there is some statutory amendment to this effect.”

6. The further import of the above, is that, on the launching of the acquisition proceedings, in respect of the petitioner/entities lands, and, when thereafter the impugned award became drawn on 20.3.1991, and yet a challenge thereto being made belatedly in the year 1992, thus results in complete divestment of right, title, and, interest of the petitioner over the acquired lands. The further consequence thereof, is that, even though this Court has made the hereinabove extracted directions. However, the effect of the said directions, as became made one and half years from the making of the impugned award, is that, also thus, thereby the petitioner entity being ill capacitated, to well canvass before this Court, that it still holds valid possession over the acquired lands. Contrarily in the face of the principles enshrined in a Constitutional Bench judgment of the Hon’ble Apex Court rendered in case titled as ***Indore Development Authority versus Manoharlal and others AIR 2020 SC 1496***, wherein, it has been expounded, that the apt genre of permissible possession becoming assumed over the acquired lands, thus by the acquiring authority concerned, is only on rapat possession thereof, thus becoming assumed thereon, hence by the acquiring authority concerned. Resultantly, thus merely on the drawing of rapat possession, irrespective of yet physical possession of the acquired lands, becoming retained by the estate holders concerned, hence constitutes valid possession over the acquired land by the acquiring authority concerned. Contrarily, any physical possession retained over the acquired land by the estate holders

concerned, thus becomes expounded therein, rather to tantamount to an illegal possession of the acquired lands by the estate holders concerned.

7. Paramountly it has also been expounded in paragraphs 245 and 256 of the judgment (supra), paragraphs whereof stand extracted hereinafter, that once there is complete vestment of title in the acquiring authority concerned, thus on launching of acquisition proceedings hence under the Act of 1894, that thereafter the estate holders has no control over the acquired lands, and, that he is not required to be holding any animus to take the acquired property, and, to control it.

“245. The question which arises whether there is any difference between taking possession under the Act of 1894 and the expression “physical possession” used in [Section 24\(2\)](#). As a matter of fact, what was contemplated under the Act of 1894, by taking the possession meant only physical possession of the land. Taking over the possession under the Act of 2013 always amounted to taking over physical possession of the land. When the State Government acquires land and draws up a memorandum of taking possession, that amounts to taking the physical possession of the land. On the large chunk of property or otherwise which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. The Government is not supposed to start residing or to physically occupy it once possession has been taken by drawing the inquest proceedings for obtaining possession thereof. Thereafter, if any further retaining of land or any re-entry is made on the land or someone starts cultivation on the open land or starts residing in the outhouse, etc., is deemed to be the trespasser on land which in possession of the State. The possession of trespasser always inures for the benefit of the real owner that is the State Government in the case.

256. Thus, it is apparent that vesting is with possession and the statute has provided under [Sections 16 and 17](#) of the Act of 1894 that once possession is taken, absolute vesting occurred. It is an indefeasible right and vesting is with possession thereafter. The vesting specified under [Section 16](#), takes place after various steps, such as, notification under [Section 4](#), declaration under [Section 6](#), notice under [Section 9](#), award under [Section 11](#) and then possession. The statutory provision of vesting of property absolutely free from all encumbrances has to be accorded full effect. Not only the possession vests in the State but all other encumbrances are also removed forthwith. The title of the landholder ceases and the state becomes the absolute owner and in possession of the property. Thereafter there is no control of the land- owner over the property. He cannot have any animus to take the property and to control it. Even if he has retained the possession or otherwise trespassed upon it after possession has been taken by the State, he is a trespasser and such possession of trespasser enures for his benefit and on behalf of the owner.”

8. Necessarily, and, reiteratedly if in the garb of the above status quo order, which was passed on a belatedly instituted petition, against the making of the impugned award, thus possession over the acquired land is retained by the petitioner. Nonetheless, reiteratedly the said order does not capacitate the petitioner entity, to lawfully retain the apposite possession. If it has done so over the acquired lands, rather the said possession by it over the acquired land is but unlawful retention thereof hence over the acquired land. Therefore, the learned counsel for the petitioner cannot argue that the principles, as set-forth in the judgment (supra), against the acquisition proceedings, being declared to become lapsed, as relates to accomplishment of both rapat possession being assumed over the acquired lands, besides compensation being tendered in terms of Section 31 of the Act of 1894, for it

becoming available, for being redeemed to the estate holders concerned, thus remaining not satisfied. The reason is but plain, that rather on the plank of the hereinabove made inferences, besides is writ large, thus in the face of the learned Additional Advocate General stating, at the bar, that the petitioner entity after receiving compensation, as became determined by the Collector concerned, in terms of Section 24(2) of the Act of 2013, has thus reared against the verdict of the Collector concerned, hence a petition for enhancement, thus before the learned Reference Court concerned. As but a natural corollary thereof, thereby there is a further amplified echoing against the petitioner, that resultantly the latter has acquiesced to the challenged award, besides thereafter too, thus on the ground of waiver, and, acquiescence rather the petitioner becoming estopped to make a challenge to the award (*supra*), as became drawn by the Collector concerned.

9. Since the above fact is concealed by the present petitioner. Therefore, the instant petition begets the vices of *suggestio falsi* and *suppressio veri*, and, when the above become combined with the petition being hit by delay and laches, thus lead to a further conclusion, that the present petition is a gross abuse of the process of Court.

10. Lastly, the learned senior counsel for the petitioner has vehemently argued before this Court, that when the respondent concerned, had in respect of the entities (*supra*), assigned relief to them, as appertaining to their lands, being denotified from acquisition. Therefore, when the present petitioner's lands are also similarly situated to the lands of the said entities, thus to ensure parity of treatment with them, the present petitioner is also entitled to secure relief from this Court, that its land be also likewise denotified.

submission also becomes unhinged of its fervor, and, tenacity. The reason for making the above inference stems from the factum, that in respect of the above entities, this Court, during the pendency of the writ petition, as became filed before this Court, had ordered for stay against the entities becoming dispossessed from the writ lands concerned. In addition, specifically in respect of M/s Beco Engineering Pvt. Ltd., the said company had filed writ petition, to which CWP-966-1990, is assigned, and, during the pendency thereof, it obtained stay against its becoming dispossessed from the acquired land. The reason for denotification of the acquired lands of the said entity, but ensues from the factum, that it occurred at the time of its raising an objection under Section 5(2) of the Act of 1894.

12. Furthermore, in respect of Kelvinator India Ltd, likewise in CWP-10023-1989, it also obtained stay against its becoming dispossessed from the acquired land, by the respondent concerned. The respondent concerned, had at the stage of the entity (supra) preferring, thus objections under Section 5(a) of the Act of 1894, hence against the acquired lands of the entity concerned, thus being put to acquisition, rather thereby at that stage, thus accorded consent to the said contest, as became raised, at the instance of the entity (supra).

13. In addition, the release of the acquired land, as made to M/s Indo American Electricals, became stemmed, from the evident factum, that its land was sandwiched between the lands of the entities (supra), and, thereby it was deemed fit by the authority concerned, that the land of the entity (supra), becoming released from the acquisition.

14. Insofar as the verdict drawn by this Court in CWP-172-1991, is concerned, whereons parity is claimed by the petitioner, yet the verdict drawn in the said case, is not amenable for being assigned any leverage to

the present petitioner. The reason being, that in that case, the apposite writ petition became filed by the entity (supra), before the announcement of award, whereas, the instant writ petition becomes evidently filed by the petitioner, through the petitioner not only practicing the vices of *suggestio falsi and suppressio veri*, as arise from the present petitioner camouflaging the factum of the award of the Collector concerned, becoming merged in the award of the learned Reference Court concerned. Therefore, on the merger of the impugned award of the Collector concerned, into the award of the learned Reference Court concerned, which has not been challenged. Consequently, the petitioner is completely incapacitated to make any valid challenge thereto.

15. Resultantly, the ground as becomes ventilated in the instant petition, thus planked on the premise, that the present petitioner acquired no knowledge about the issuance of notification respectively under Section 4 and under Section 6 of the Act of 1894, rather also is an unmeritworthy ground, given the petitioner raising against the award of the Collector concerned, a petition for enhancement, thus before the Reference Court concerned. Since the above would have happened only when the petitioner had knowledge of the making of the notifications (supra), thereby, at this stage, the petitioner cannot well contend before this Court, that it had no knowledge of the issuance of the notifications (supra), as became made by the authorities concerned.

Final Order

16. Since for all the reasons (supra), and, that the petitioner has abused the process of law. Moreover, since despite complete vestment of right, title and interest happening viz-a-viz the acquiring authority concerned, thus in terms of verdict (supra), yet the petitioner has retained

but as a trespasser, thus possession over the acquired lands. Therefore, this Court does not find any merit in the instant petition, and, is constrained to dismiss it. Accordingly, the instant petition is dismissed with costs of Rs. One lac, which shall be forthwith deposited with Poor Patient Welfare Fund, PGIMER, Chandigarh. The impugned orders are maintained and affirmed. However, this Court refrains from adjudging mesne profits against the petitioner for its unlawfully retaining the possession, if any, over the acquired land. The remedy in respect of the above determination be resorted before the appropriate forum or the Court concerned.

17. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 22, 2023
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No