



In the High Court of Punjab and Haryana at Chandigarh

CWP No. 13402 of 1997 (O&M)

Reserved on : 29.4.2024

Date of Decision: 27.5.2024

Balbir Singh (since deceased) through LR.
and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Argued by: Mr. Amit Jain, Senior Advocate with
Mr. Chetan Salathia, Advocate
for the petitioner(s).

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana.

Mr. Rajesh Garg, Senior Advocate with
Ms. Neha Matharoo, Advocate
for the respondent-BBMB.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of the notification (Annexure P-6) issued under Sections 4 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'), and, also seeks the quashing of the declaration Annexure P-7, issued under Section 6 of the Act of 1894. The petitioners have also sought the quashing of the letter dated 3.7.1997 (Annexure P-1), and, of the letter dated 17.7.1997 (Annexure P-2), issued by the authorities concerned, with respect to the delivery of possession and sanction of mutation in respect of the lands measuring 124K-13M, situated in village Desu Jodha, Teshil Dabwali.



Grounds raised in the instant petition

2. It is averred in the instant petition that petitioners No. 4 to 6 and 14, who are the sons of one Harchand Singh, had owned land in equal shares in village Desu Jodha along with other co-sharers. However, during consolidation proceedings, separate kurrahs were allotted to the parties. It is further averred in the instant petition, that all the petitioners are in continuous possession of the land holdings falling to their share, and, they have installed tubewell(s) in their lands. It is also averred therein, that the petitioners were informed by the village Patwari that out of the land held and owned by the petitioners, an area of 124 kanals 13 marlas comprised in killa Nos. 21 and 22, was going to be handed over to the President, Purusharthi Committee, under the orders of the Sub-Divisional Officer concerned, and, letters (Annexures P-1 and P-2) with regard to delivery of possession, and, sanction of mutation were also issued by the authorities concerned. It is further averred therein, that the lands in the question have been allegedly acquired at the back of the petitioners, through an award bearing No. 102/H made on 31.3.1964, and, which became subsequently amended vide Award No. 144 dated 13.9.1968 and Award No. 14/1H dated 14.6.1969. It is further averred in the instant petition, that no publication in the locality was made, and, that the declaration under Section 6 of the Act of 1894 was made after 8 days of the issuance of the notification under Section 4 of the Act. It is also averred in the instant petition, that the petitioners were never served with any notice under Section 9, 11 and 12 of the Act of 1894. Therefore, it is prayed, that the impugned awards (supra), and, the letters (supra) be quashed, and, set aside.

**Reply on behalf of the respondents**

3. It is averred in the reply filed on behalf of the respondents concerned, that the present case relates to the resettlement of 28 oustees in village Desu Jodha, Tehsil Dabwarli, District Sirsa, and, that vide notification dated 8.6.1960 issued under Section 4 of the Act of 1894, land measuring 15.84 acres was proposed to be acquired for a public purpose namely for rehabilitation of Bhakhra Dam oustees displaced from Bhakra Dam reservoir area in the revenue estate of village Desu Jodha. It is further averred in the reply, that petitioners No. 4 to 5 along with their father Harchand Singh moved a representation against the acquisition proceedings, however the said representation was declined, on 25.9.1965, by the Land Acquisition Officer concerned, on the ground that the said representation was time barred. It is further stated in the reply, that the notification dated 8.6.1960 was issued for acquiring land measuring 15.84 acres at village Desu Jodha, whereas, the area on becoming actually measured at the site, it was calculated to be 15.58 acres, and, the said difference of 0.26 acre had occurred owing to wrong measuring(s) of village boundaries. Therefore, a supplementary award No. 14/1 dated 13.9.1968 was announced by the Collector concerned, wherein, it was clarified that the area of 124 kanals 13 marlas (15.84 acres), as mentioned in the award dated 31.3.1964, when measured, was only 123 kanals 0 marlas. The area of khasra No. 98/24, 114/6 and 114/16 was respectively taken as 3 kanals 18 marlas, 4 kanals 01 marlas, and 7 kanals 6 marlas, whereas, in fact the correct area of these khasra numbers was respectively 3 kanals 8 marlas, 3 kanals 14 marlas and 6 kanals 10 marlas. Thereafter, the Land Acquisition Collector concerned, announced another award No. 14/1/H dated 14.6.1969 in respect of the disputed lands, wherein, it was stated that after the announcement of supplementary award dated 13.9.1968, the department had been insisting for



taking over the possession of the disputed lands, but the villagers had produced a copy of the judgment dated 20.11.1968 passed by this Court in CWP-3523-1968, titled as Sukma alias Raju versus State of Haryana and others, and, owing to the said reason, the possession of the land, mentioned in the award, could not be given because the consolidation scheme as prepared, was no longer effective. Therefore, the Land Acquisition Collector concerned, deemed it fit and appropriate that the award be announced on the basis of old khasra numbers and the owners thereof, be compensated for the acquisition of their lands. The said award was also ordered to be treated as a part and parcel of the award dated 31.3.1964 and the supplementary award dated 13.9.1968. On the basis of the said award, mutation No. 4674 dated 25.10.1969 was sanctioned. On 24.10.1969, a panchnama was prepared, according to which, the possession of the land in question was given to the SDO concerned.

4. It is further stated in the reply (supra), that the land owners concerned, filed their objections under Section 18 of the Act of 1894, which were dismissed in default by the Collector concerned, on 8.3.1972. It is further stated in the reply, that the Director of Consolidation vide his letter dated 28.10.1994, informed the Deputy Commissioner, Resettlement, Hissar, that the consolidation work of village Desu Jodha had been taken out from the purview of consolidation work, owing to non co-operation of the villagers, and, that the transfer of possession according to previous consolidation already having been done. Thereafter, mutation No. 6906 dated 28.7.1997 was sanctioned by the Assistant Collector concerned, subsequently, petitioners No. 1, 4 and 5 had filed a civil suit for permanent injunction in respect of the disputed lands, however, on the statement of the counsel for the plaintiff, the said suit was dismissed as withdrawn on 2.8.1997. It is further averred in the reply, that the physical possession of the disputed lands was delayed on account of



representations and technicalities during the consolidation proceedings.

Reasons for rejecting the above grounds

5. Though, the notifications (supra) whereby the subject lands were put to acquisition, and, the consequent thereto awards (supra), became passed, thus included therein the pre-consolidation khasra numbers. Moreover, when post the makings of the above, the mohal concerned was under consolidation, therebys only if the very same subject lands became re-allotted to the acquiring department concerned, thus by the consolidation officer concerned, thereupon alone the subject lands would become construed to become validly acquired. In sequel, the awards as made pursuant to the notifications for acquisition, thus would be construed to be validly made awards.

6. In other words, if post the conclusion of consolidation operations, the subject lands after assigning to them fresh khasra numbers, thus were evidently co-relatable to the earlier khasra numbers, and, were all consolidated into a compact parcel of land besides became allotted to the acquiring department concerned, in the records of rights, as became prepared in terms of Section 22 of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, post the finalization of the consolidation scheme, thereupon, the awards (supra), as became passed in terms of the pre-consolidation records, thus were amenable for becoming bestowed apt legitimacy.

7. However, in the instant case, though there exist on record various communications commencing from the year 1970, thus evidently post the drawings of awards respectively in the years, 1964, 1968 and 1969, wherebys the subject lands were brought to acquisition. Though, the said



communications were made to the Consolidation Officer concerned, to expedite the process of consolidation operation, as became undertaken in the mohal concerned. However, from a reading of Annexure R-17, contents whereof become extracted hereinafter, it is forthrightly clear, that the undertakings of consolidation operations in the mohal concerned, rather owing to non-cooperation of the villagers, thus became abandoned. Thereins also occurs speakings, that the transfers of possession, thus in terms of the previous consolidation or pre-consolidation records rather became validated.

“The consolidation work of village Desujodha has been taken out from the purview of Consolidation work due to non cooperation of the villagers and the transfer of possession according to previous consolidation. The distribution work of the shares in this village is to be done by the Revenue Dept.”

8. In consequence, it appears, that since in terms of pre-consolidation records or when in terms of the relevant records, the notifications for acquisition were issued, and, also the consequent thereto awards (supra) became passed. Resultantly, the launching of acquisition proceedings, and, their termination(s) through the making of awards (supra), is deemed to be completely lawful. The reason is but simple, that the happenings of abandonments of the consolidation operations, thus as revealed by Annexure R-17, rather evidently occurred, thus post 1964, 1968 and 1969, in years whereof, the award (supra) became rendered. Moreover, the said annexure also make speakings that, the apposite transfers of possession, thus according to the pre consolidation records rather was to be maintained. Resultantly, thereby the acquisition notifications, and, the consequent thereto awards when became passed, thus in terms of the



lawfully approbated records of rights, as were in existence prior to the abandoned consolidation operations, which unsuccessfully commenced in the year 1970, thus necessarily do acquire an aura of validity. Since the notifications for acquisition, and, the consequent thereto awards, thus are not revealed by any cogent evidence rather to be suffering from any inherent defect, inasmuch as, the said records of rights becoming tainted with any element of fraudulence. Therefore, the reverence, as became meted by the acquiring department concerned, to the said records of rights, is deemed to be a valid reverence thereto.

9. In short, when the power of eminent domain became exercised by the acquiring authority concerned, strictly in terms of the validly drawn records of rights, besides when the said records of right have not been revealed to undergo a change, inasmuch as, the title of the land losers or of the estate holders concerned, becoming disturbed, through a validly drawn decree of the Civil Court of competent jurisdiction. Resultantly, the launching of acquisition proceedings in respect of the subject lands, besides the making of awards (supra) qua them is required to be countenanced by this Court.

10. Moreover, the further consequence thereof, is that, even if assumingly any of the estate holders or the land losers are retaining possession over the subject lands, thereupon the said retention, is but as trespassers thereovers, as on launching of acquisition proceedings through issuance of notifications under Section 4 of the Act of 1984, and, under Section 6 of the Act of 1894, thus divests the land losers concerned vis-a-vis their rights, title and interest over the subject lands, and, rather completely



vests rights, title and interest over the subject lands vis-a-vis the acquiring department concerned.

11. In sequel, the land losers concerned, when become aptly served with eviction notices, by the acquiring authority concerned, therefore, the said eviction notices are required to be lawfully enforced against the land losers concerned.

12. Even *ex facie* since, the notifications for acquisitions became issued in the year 2004, therefore, the institution of the instant writ petition, rather in the year 2015, makes it to become imbued with gross pervasive stains of delay and laches.

13. Moreover, the Hon'ble Apex Court in a judgment rendered in case titled "*M/s Star Wire (India) Ltd. V/s State of Haryana and others*", *reported in (1996) 11 SCC 698*, has in the relevant paragraph of its verdict, paragraph whereof becomes extracted hereinafter, thus declared that any belated challenge, as made to the relevant lawfully fully terminated acquisition proceedings, thus is hit by the vices of delay and laches, and thereby too, the said belated motion as existing in the instant petition, is but required to be declared as misconstituted.

"Shri P.P. Rao, learned senior counsel for the petitioner, contends that the petitioner had no knowledge of the acquisition proceedings; as soon as it came to know of the acquisition, it had challenged the validity of the acquisition proceedings and, therefore, it furnishes cause of action to the petitioner. He further contends that the writ petition could not be dismissed on the ground of laches but was required to be considered on merits. We find no force in the contention. Any encumbrance created by the erstwhile owner of the land after publication of the notification under Section 4(1) does not bind the State if the possession of land is already taken over after the award came to be passed. The land stood vested in the State free from all encumbrances under Section 16. In Gurmukh Singh & Ors. vs. The State of Haryana [J] 1995 (8) SC 208, this Court had held that a subsequent purchaser is not entitled to challenge the legality of the acquisition proceedings on the ground of lack of



publication of the notification. In Y.N. Garg vs State of Rajasthan [1996 (1) SCC 284] and Sneh Prabha vs. State of U.P. [1996 (7) 325], this Court had held the alienation made by the erstwhile owner of the land after publication of the notification under Section 4(1), do not bind either the State Government or the beneficiary for whose benefit the land was acquired. The purchaser does not acquire any valid title. Even the colour of title claimed by the purchaser was void. The beneficiary is entitled to have absolute possession free from encumbrances. In U.P. Jal Nigam, Lucknow through its Chairman & Anr. vs. M/s Kalra Properties (P) Ltd., Lucknow & Ors. [(1996) 1 SCC 124], this Court had further held that the purchaser of the property, after the notification under Section 4(1) was published, is devoid of right to challenge the validity of the notification or irregularity in taking possession of the land before publication of the declaration under Section 6. As regards laches in approaching the Court, this Court has been consistently taking the view starting from State of Madhya Pradesh & Anr. vs. Bhailal Bhai & Ors. [AIR 1964 SC 1006] wherein a Constitution Bench had held that it is not either desirable or expedient to lay down a rule of universal application but the unreasonable delay denies to the petitioner, the discretionary extraordinary remedy of mandamus, certiorari or any other relief. The same was view reiterated in catena of decisions, viz., Rabindranath Bose & Ors. vs. The Union of India & Ors. [(1970 (1) SCC 84]; State of Mysore & Ors. vs. Narsimha Ram Naik [AIR 1975 SC 2190]; Aflatoon & Anr. vs. Lt. Governor of Delhi [(1975) 4 SCC 285]; M/s. Tilokchand Motichand & Ors. vs. H.B. Munshi, Commissioner of Sales Tax, Bombay & Anr. [AIR 1970 SC 898]; State of Tamil Nadu & Ors. etc. V. L. Krishnan & Ors. etc. [JT 1995 (8) SC 1]; Improvement Trust, Faridkot & Ors. vs. Jagjit Singh & Ors. [1987 Supp. SCC 608]; State of Punjab & Ors. vs. Hari Om Co-operative House Building Society Ltd., Amritsar [1987 Supp. SCC 687]; Market Committee, Hodal vs. Krishan Murari & Ors. [JT 1995 (8) SC 494] and State of Haryana vs. Dewan Singh [(1996 (7) SCC 394] wherein this Court had held that the High Court was not justified in interfering with the acquisition proceedings. This Court in the latest judgement in Municipal Corporation of Great Bombay vs. The Industrial Development & Investment Co. Pvt. Ltd. & Ors. [JT 1996 (8) SC 16], reviewed the entire case law and held that the person who approaches the Court belatedly will be told that laches close the gates of the Court for him to question the legality of the notification under Section 4(1), declaration under Section 6 and the award of the Collector under Section 11. ”

Final Order of this Court.

14. In aftermath, after dismissing the instant petition, the notifications (Annexures P-6 and P-7) are upheld, and, the letters (Annexure



P-1 and P-2), wherebys the land losers were directed to deliver the vacant possession of the subject lands, are also upheld.

15. After the assumption of possession over the subject lands, the acquiring/beneficiary department concerned, is directed to forthwith lawfully ensure the apposite delivery(ies) of encumbrance free physical possession to the beneficiaries of the acquisition proceedings.

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

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

May 27, 2024
Gurpreet

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