

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.13318 of 2015
Date of decision: 20.7.2015**

Bhag Chand and another

.....Petitioners

Vs.

Haryana Urban Development Authority and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Rose Gupta, Advocate for the petitioners.

Ajay Kumar Mittal, J.

1. The petitioners pray for quashing the memo dated 19.7.1983, Annexure P.13 whereby land of the petitioners alongwith others was released in favour of Respondent No.5 – PWD B&R Loc Income Group Cooperative House Building Society Limited, Hisar by Respondent No.3 – Estate Officer Haryana Urban Development Authority, Hisar (HUDA). Further prayer has been made for directing the respondents to release the land of the petitioners and to hand over the vacant possession of the same to them.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Petitioner No.1 - Bhag

Singh was owner in possession of land measuring 2 kanals 19 marlas situated at Village Hisar, District Hisar. He transferred 1/4th share of the said land to Inder Singh son of Ganga Dutt, Dayanand son of Chandu Ram and Jiwan Ram son of Muasi Ram each pursuant to civil court judgment and decree dated 16.9.1975 passed by trial court, Hisar. Mutation was also sanctioned on 28.2.1981, Annexure P.2. Jiwan Ram son of Mausi Ram has already died and petitioner No.1 is one of his legal heir. He is a co-sharer in the land in question. The land measuring 2 kanals 14 marlas situated at Village Kheri Jalab, Tehsil Narnaund, District Hisar was acquired by the Land Acquisition Collector, Panchkula vide notification dated 21.12.1979. Possession of the said land alongwith other land was taken on 11.6.1981, Annexure P.3 by HUDA from the Land Acquisition Collector. The said land was acquired for development and utilization of residential Sector 15, Hisar. The petitioners have already received the entire compensation as well as enhanced compensation. In the month of 2012, the petitioners came to know that the said land had not been utilized by the HUDA since 1981 and the same was lying vacant. The petitioners also served legal notice dated 9.4.2013/27.4.2013, Annexure P.6 upon the respondents for release of the land from acquisition and to hand over the vacant possession of the same to them. They were even ready to return the entire compensation including the enhanced compensation with interest at the rate of 15% per annum. Having received no response, the petitioners filed suit for permanent injunction restraining the respondents from changing the nature of land in question on 2.5.2013. During the pendency of the said suit, respondent No.5 society moved application under Order 1 Rule 10 read with section 151 CPC before the trial court for impleading defendant No.3 to the suit as initially the suit

was filed only against respondent Nos.3 and 4. Respondent No.3 admitted in its application that possession of the land in question was handed over to respondent No.3 by respondent No.1 vide letter dated 24.10.1983, Annexure P.12. The application filed by respondent No.3 was allowed vide order dated 14.5.2013, Annexure P.9 as the petitioners appended no objection to the said application. Respondent No.3 filed its written statement and prayed for dismissal of the suit. It was admitted by respondent No.5 in the written statement that the land in question was released by respondent No.3 in its favour vide letter dated 19.7.1983, Annexure P.13. Possession certificate dated 19.7.1983 was also issued in favour of respondent No.5. The petitioners prayed for withdrawal of the suit on the ground that they wanted to file writ petition in this court. Consequently, vide order dated 17.4.2015, Annexure P.15, the suit was dismissed as withdrawn. Hence the instant writ petition.

3. We have heard learned counsel for the petitioners.

4. Admittedly, the land was acquired in the year 1979 for development and utilization of residential Sector 15, Hisar. The possession was taken from the petitioners on 11.6.1981. The petitioners received the entire compensation including enhanced compensation. In the year 1983, the land in question was released by respondent No.3 HUDA in favour of respondent No.5 society. Possession was also given to the society. The petitioners challenged the impugned action of the respondent-authorities for the first time by filing a civil suit in the year 2013 which was dismissed as withdrawn vide order dated 2.5.2013 as they wanted to file a writ petition in this Court. The present petition has been filed in the year 2015.

5. In the present case, the petitioners having withdrawn the suit

filed in the year 2013 and that too after an inordinately long delay of 30 years, they are now precluded from challenging the impugned memo dated 19.7.1983 in the year 2015 by filing the present petition. Consequently, the instant petition is hit by delay and laches and the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

July 20, 2015
'gs'

(Rekha Mittal)
Judge

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