

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 05.11.2015

C.W.P.No.13846 of 2015

Sat Narain

...Petitioner

Versus

State of Haryana & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: Mr. Rajeev Kawatra, Advocate, for the petitioner.

HEMANT GUPTA, J.

Challenge in the present writ petition is to the notifications dated 05.10.2005 & 06.10.2006 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for short 'the Act') respectively, as well as notification dated 16.10.2008 issued under Section 48 of the Act, whereby land measuring 653 acres including the land of the petitioner has been left out from acquisition.

The petitioner is owner of land measuring 12 Kanals 9 Marlas situated in Village Nangal Kalan, District Sonapat. The said land became subject matter of acquisition vide the aforesaid notifications. The petitioner and other co-villagers entered into agreements to sell with the agents of the respondent colonizers, but the copies of the agreement to sell were not provided to them. Rather, signatures/thumb impressions of all the farmers were obtained on number of blank papers, which were later on misused for creating unregistered Power of Attorneys. On the basis of such Power of Attorneys, forged collaboration agreements to apply license for residential

colonies were created. On the basis of such forged collaboration agreements, a license No.842 of 2006 to develop a residential colony was issued in favour of respondent No.6 under the Haryana Development & Regulation of Urban Areas Act, 1975. It is, thereafter, the petitioner executed sale deed on 25.10.2006 (Annexure P-7) in favour of M/s Upasna Buildwell India Pvt. Ltd.

Thereafter, the petitioner filed a writ petition bearing CWP No.9733 of 2014 before this Court challenging the sale deed and the collaboration agreement. The said writ petition was disposed of vide order dated 20.05.2014 with a direction to pass a speaking order. In compliance of the said directions, orders have been passed on 10.02.2015 and 20.02.2015 (Annexures P-9 & P-10). In the order dated 10.02.2015, the Managing Director, Haryana State Industrial & Infrastructure Development Corporation, Panchkula, Haryana – respondent No.2 has concluded as under:

“In view of the above said position, I have come to the conclusion that the petitioner has challenged the acquisition proceedings on the ground that he was coerced by the builder to sell his land and sale deed executed by him in favour of the builder be set aside. This office is not the competent authority to set aside the sale deed executed by the petitioner in favour of Upasna Builders India Pvt. Ltd. and any relief in this regard cannot be considered by this office. The petitioner had entered into a collaboration agreement with the builder and had applied for licence. However, the plea of the petitioner regarding revocation of the licence is to be decided by the Department of Town & Country Planning. The petitioner has further requested for quashing the release of land purchased by the private respondent. The release order has already been issued on 16.10.2008 and this office cannot consider quashing the release of the land at this stage.”

It is the said orders, which have been challenged by the petitioner in the present writ petition.

The sale deed was executed by the petitioner on 25.10.2006. The first writ petition challenging the sale deed was filed in the year 2014 i.e. after more than 7 years. The question, as to whether a sale deed can be permitted to be disputed in a writ petition after the expiry of statutory period of challenge the document that is three years under the Limitation Act, 1963, was examined by this Court in CWP No.16775 of 2015 titled '**Vijay Pal & others Vs. State of Haryana & others**' decided on 14.8.2015, wherein the judgment rendered by a Coordinate Bench of this Court in CWP No.19096 of 2011 titled '**Sant Singh & others Vs. State of Haryana & others**' decided on 20.12.2013 and referred to by the petitioners, has been extinguished. This Court held as under:

“To challenge the sale deeds in a writ petition in the year 2015 on the ground that such documents are fraudulent suffers from the gross delay and laches. In a recent judgment in State of Orissa and another v. Mamata Mohanty, (2011) 3 Supreme Court Cases 436, Hon'ble Supreme Court held that though the Limitation Act, 1963 does not apply in writ jurisdiction but the doctrine of limitation being based on public policy, the principles enshrined therein are applicable. The Court also found that if a litigant approaches the Court after coming to know of the relief granted by the Court in a similar case, the same cannot furnish a proper explanation for delay and laches. The Court observed as under:-

“52. In the very first appeal, the respondent filed writ petition on 11.11.2005 claiming relief under the Notification dated 6.10.1989 w.e.f. 1.1.1986 without furnishing any explanation for such inordinate delay and on laches on her part. Section 3 of the Limitation Act 1963, makes it obligatory on the part of the court to dismiss the Suit or appeal if made after the prescribed period even though the limitation is not set up as a defence and there is no plea to raise the issue of limitation even at appellate stage because in some of the cases it may go to the root of the matter. (See: Lachhmi Sewak Sahu v. Ram Rup

Sahu & Ors., AIR 1944 Privy Council 24; and Kamlesh Babu v. Lajpat Rai Sharma & ors. (2008) 12 SCC 577).

53. Needless to say that Limitation Act 1963 does not apply in writ jurisdiction. However, the doctrine of limitation being based on public policy, the principles enshrined therein are applicable and writ petitions are dismissed at initial stage on the ground of delay and laches. In a case like at hand, getting a particular pay scale may give rise to a recurring cause of action. In such an eventuality, the petition may be dismissed on the ground of delay and laches and the court may refuse to grant relief for the initial period in case of an unexplained and inordinate delay. In the instant case, the respondent claimed the relief from 1.1.1986 by filing a petition on 11.11.2005 but the High Court for some unexplained reason granted the relief w.e.f. 1.6.1984, though even the Notification dated 6.10.1989 makes it applicable w.e.f. 1.1.1986.

54. This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time. (See: M/s Rup Diamonds & ors. v. Union of India & ors, AIR 1989 SC 674; State of Karnataka & Ors. v. S.M. Kotrayya & Ors., (1996) 6 SCC 267; and Jagdish Lal & Ors. v. State of Haryana & Ors., AIR 1997 SC 2366)."

In Mutha Associates v. State of Maharashtra, (2013) 14 SCC 304, the Hon'ble Supreme Court upheld the order of the High Court dismissing the writ petition on the ground of delay and laches. The Court held:-

"18. In the absence of any objections or opposition to the proposed acquisition the Land Acquisition Officer was free to make an award which he did on 9-11-1989. It was only after the Collector (Land Acquisition) initiated the proceedings for taking over the possession of the land in question that the landowners filed a civil suit in which they challenged the

award made by the Collector without raising any question regarding the validity of the declaration made under Section 126(2) of the MRTP Act read with Section 6 of the Land Acquisition Act. That suit remained pending for nearly six years before the same was withdrawn to challenge the acquisition proceedings in Writ Petition No. 670 of 1996 filed before the High Court. This challenge was on the face of it barred by inordinate delay and laches. The High Court was fully justified in declining to interfere with the acquisition proceedings on that ground.

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22. The view taken by the Constitution Bench in *Aflatoon v. Lt. Governor of Delhi*, (1975) 4 SCC 285 has been reiterated by another Constitution Bench decision in *Indrapuri Griha Nirman Sahakari Samiti Ltd. v. State of Rajasthan*, (1975) 4 SCC 296. To the same effect are the decisions of this Court in *Municipal Corpn. of Greater Bombay v. Industrial Development Investment Co. (P) Ltd*, (1996) 11 SCC 501, *Ramjas Foundation v. Union of India*, 1993 Supp (2) SCC 20 and *Larsen & Toubro Ltd. v. State of Gujarat*, (1998) 4 SCC 387. The common thread that runs through all these decisions is that in order to succeed in a challenge to the acquisition proceedings the interested person must remain vigilant and watchful. If instead of doing so, the interested person allows grass to grow under his feet, he cannot invoke the powers of judicial review exercisable under Article 226 of the Constitution. The failure of the interested persons to seek redress at the appropriate stage and without undue delay would in such cases give rise to an inference that they have waived of their objections to the acquisitions. The bottom line is that the High Court can legitimately decline to invoke their powers of judicial review to interfere with the acquisition proceedings under Article 226 of the Constitution if the challenge to such proceedings is belated and the explanation offered a mere moonshine as is the position in the case at hand. The High Court has in the fact situation of this case rightly exercised its discretion in refusing to interfere with the acquisition proceedings.”

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The earlier writ petitions filed by the petitioners have been dismissed finding that the Writ Court is not the appropriate forum. This Court directed the authorities to hold a fact-finding inquiry when the writ petition was to be treated as a representation. Such order would not confer jurisdiction on the authorities under the Land Acquisition Act, 1894; Haryana Urban Development Authority Act, 1977 or Haryana Urban Development and Regulation of Urban Areas Act, 1975 to declare the sale deeds as null and void. The Competent Court to declare the sale deeds as null and void on any of the ground is the Civil Court alone or may be writ court. By virtue of an order passed by this Court, no jurisdiction can be conferred on the authorities to declare a sale deed as null and void.

Therefore, a sale deed cannot be declared to be null and void by the authorities. The disputed question of fact that as to whether there was misrepresentation, coercion or fraud exercised over the petitioners to execute the sale deeds could be examined only by the Civil Court which is competent to declare a sale deed null and void on the grounds pleaded on the basis of the evidence led before it. Such disputed questions of fact are generally not examined by the Writ Court. Therefore, the order passed by the Competent Authority that it has no jurisdiction to declare the sale deeds as null and void cannot be said to be illegal and unwarranted.”

The petitioner has challenged the sale deed dated 25.10.2006 after more than 7 years for the first time in the year 2014. The challenge to such sale deed in a writ petition after long lapse of time cannot be entertained for the reasons as recorded in Vijay Pal’s case (supra). Consequently, we do not find any merit in the present writ petition. The same is dismissed.

(HEMANT GUPTA)
JUDGE

05.11.2015
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(RAJ RAHUL GARG)
JUDGE