

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

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Civil Writ Petition No. 15388 of 2014

Date of decision: 27.07.2015

Devender Singh

.....*Petitioner*

Versus

State of Haryana and others

.....*Respondents*

**Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Vikram Singh, Advocate
for the petitioner

Mr. Sudeep Mahajan, Additional A G Haryana
for the respondents

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

This order shall dispose of Civil Writ Petition Nos. 15388 and 16214 of 2014 as identical questions of law and fact are involved for adjudication. However, for sake of convenience, facts are taken from Civil Writ Petition No. 15388 of 2014.

The land of the petitioner was acquired vide Notification dated 27.01.2006, issued under Section 4 of the Land Acquisition Act, 1894 (in short, 'the Act') followed by Notification dated 01.09.2006, issued under

Section 6 of the Act. The award was passed on 23.10.2012, i.e. more than six years of issuance of the notification under Section 6 of the Act. The petitioner challenged the aforesaid notifications by filing Civil Writ Petition No. 1780 of 2007 which was dismissed on 01.03.2011. In the said proceedings, there was an order of status quo regarding possession.

The sole submission made by counsel for the petitioner is that in the earlier writ petition (Civil Writ Petition No. 1780 of 2007), as there was no order staying declaration of the award, the order of status quo regarding possession will not enure to benefit of the respondents to seek exclusion of the stay period by invoking the Explanation appended to Section 11-A of the Act. It is prayed that as the award was passed after expiry of the period of two years from the date of publication of the declaration under Section 6 of the Act, the award and the entire acquisition proceedings are liable to be quashed.

Counsel for the respondents, on the contrary, would urge that stay of dispossession in CWP 1783 of 2007 would fall within the purview of Explanation appended to Section 11-A of the Act to exclude the period of stay in computing the period of two years statutorily provided for making an award under Section 11 of the Act.

We have heard learned counsel for the parties and perused the records.

The declaration under Section 6 of the Act was made on 01.09.2006 and the award was passed by the Land Acquisition Collector on 23.10.2012 i.e. more than six years after issuance of the notification under Section 6 of the Act. Concededly, in CWP No. 1783 of 2007 filed by the petitioner, there was an order of status quo regarding possession during

pendency of the writ petition and said order remained in force with effect from 05.02.2007 to 01.03.2011, the date on which seven writ petitions including Civil Writ Petition No. 1783 of 2007 preferred by the petitioner were dismissed.

The short question which survives for consideration is '*whether the period of status quo regarding possession can be allowed to be excluded for the purpose of computing period of two years within which the State was obligated to make an award under Section 11 of the Act?*'

Section 11-A of the Act being relevant and germane to the issue is reproduced herein-below for ready reference:-

*“11A. Period within which an award shall be made-(1)
The Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:*

Provided that in a case where the said declaration has been published before the commencement of the Land ?Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation-In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.”

A plain reading of the Explanation appended to Section 11-A (1) of the Act would make it manifest that period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded for computing the period of two years

required to make an award under Section 11 of the Act. In our considered opinion, the order of status quo regarding possession in the earlier proceedings initiated by filing Civil Writ Petition No. 1783 of 2007 certainly falls within the purview of stay of action or proceeding to be taken in pursuance of the declaration under Section 6 of the Act and, therefore, the period of stay is to be excluded in computing the period of two years, referred to in sub section (1) of Section 11-A of the Act. We find fortification to our observations from judgment of the Hon'ble Supreme Court '*Govt. of T.N. and another v. Vasantha Bai*' **1995 Supp (2) Supreme Court Cases 423**, in which Hon'ble Court after referring to the earlier judgments in '*Y.N. Nendoliya v. State of Gujarat*' (1991)4 SCC 531 and '*Sangappa G. Sajjan v. State of Karnataka*' (1994)4 SCC 145, has held in para 8, as under:-

“8. The ratio in the above cases would squarely apply to the facts in this case. The Division Bench of the High Court was clearly in error in taking the contrary view. We, therefore, hold that the stay of dispossession would tantamount to stay of further proceedings being taken under Section 11 and Explanation to Section 11-A, covers such an order and the entire period of stay has to be excluded in computing the period of two years prescribed by Section 11-A.”

In this view of the matter, we do not find any merit in the contention of counsel for the petitioner that the period during which the order of status quo in regard to possession remained in force would not be excluded in computing the period of two years provided in Section 11-A (1) of the Act. It is not plea of the petitioner that even if the said period is

excluded, still the award was made beyond two years from the declaration under section 6 of the Act.

No other point has been urged.

In view of what has been discussed hereinabove, finding no merit, the petitions are dismissed leaving the parties to bear their own costs.

(Ajay Kumar Mittal)
Judge

(Rekha Mittal)
Judge

July 27th, 2015
Mohan Bimbura

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

-.-

Civil Writ Petition No. 16214 of 2014
Date of decision: 27.07.2015

Naresh Kumar and another*Petitioners*

Versus

State of Haryana and others*Respondents*

Coram: **Hon'ble Mr. Justice Ajay Kumar Mittal**
 Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Vikram Singh Dhakla, Advocate
 for the petitioner

Mr. Sandeep Mahajan, Additional A G Haryana
for the respondents

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Rekha Mittal, J.

For order, see order of even date passed in Civil Writ Petition
No. 15388 of 2014.

(Rekha Mittal)
Judge

(Ajay Kumar Mittal)
Judge

July 27th, 2015
Mohan Bimbra