

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

CWP No.23812 of 2015(O&M)

Date of decision:26.11.2015

Naranjan Singh

....Petitioner

VERSUS

Improvement Trust Hoshiarpur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Onkar Singh, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The petitioner has sought a writ of mandamus for a direction to respondent authorities to decide the representation dated 28.01.2004 (Annexure P-4) and 22.10.2015 (Annexure P-8) to seek the exemption from the acquisition of the property of the petitioner.

The petitioner has purchased the land in question vide sale deed dated 28.09.1988. The respondent-Improvement Trust published a notification in the year 1994 for acquisition of land. As per the petitioner, the objections filed by him were rejected. The petitioner as well as other land owners was directed to hand over possession to the Improvement Trust. Some other land-owners filed a writ petition i.e. CWP No.14958 of 1997 titled Harjit Singh v. The Improvement Trust Hoshiarpur and others, but the said writ petition was dismissed on 07.10.2002. The petitioner refers to a notice dated 05.11.2003 (Annexure P-2) served upon him to hand over the possession of the premises. The petitioner is said to have

made a representation for release of the land acquired. The petitioner is said to have also filed a civil suit for injunction along with an application under Order XXXIX Rule 1 and 2. The application for ad interim injunction was dismissed on 18.03.2004. The appeal was also dismissed. The petitioner did file a revision petition which was admitted. As per the petitioner, the said suit and the revision have since been withdrawn with liberty to file a writ petition and hence the present writ petition was filed.

The petitioner refers to an order passed in CWP No.19132 of 2003 titled Gurcharan Singh v. The Improvement Trust Hoshiarpur and others, which was decided on 13.07.2006 when a statement was made before this Court by the counsel for the Trust to decide the representation by the Chairman of Improvement Trust if the resolution passed by the Improvement Trust is accepted by the State Government. The resolution of the Improvement Trust was said to be for release of land of the petitioner therein.

From the perusal of the facts stated, it transpires that the petitioner did file objections to the acquisition but thereafter has not availed any of the legal remedies aggrieved against the acquisition of the land/residential property of the petitioner. It appears that the petitioner did file a civil suit but the said civil suit was withdrawn.

The petitioner having failed to avail the remedies for a long period of time from the year 1997 when the award was announced till the filing of the present writ petition is estopped to challenge the acquisition. The writ petition suffers from gross delay and laches.

It may be noticed that a Division Bench of this Court in an order dated 19.11.2015 passed in CWP No.9318 of 2003 titled Jaswinder

Kaur and another v. State of Punjab and others, has held that the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 2013 Act) are not applicable to the acquisition of land under the Punjab Town Improvement Act, 1922 as Land Acquisition Act, 1894 was incorporated in the Punjab Town Improvement Act, 1922. The Court held as under:-

“In view of the judgment in Nagpur Improvement Trust Vs. Vasantrao & others, (2002) 7 SCC 657, the provisions of the Land Acquisition Act have been incorporated in the Act. In the case of incorporation of a Statute in the later Statute, the subsequent amendments to the earlier law are irrelevant for application to the subsequent law. Normally, when a Statute is by reference or citation, the amendment to the earlier law is accepted to be applicable to the later law while in the case of incorporation, the subsequent amendments to the earlier law are irrelevant for application to the subsequent law. Even where there is legislation by reference, the Court needs to apply its mind as to what effect the subsequent amendments to the earlier law would have on the application of the later law. The objective of all these principles of interpretation and their application is to ensure that both the Acts operate in harmony and object of the principal statute is not defeated by such incorporation. Courts have made attempts to clarify this distinction by reference to various established canons.

Therefore, subsequent amendments or the repeal and introduction of another statute are inconsequential for implementation of the law contained in the subsequent Act. Thus, the amendments made in the Land Acquisition Act, 1894 would not per se applicable for the acquisition of land under the Punjab Town Improvement Act. However, the provisions relating to compensation would be applicable to maintain parity in determining the market value of the land acquired irrespective of acquisition either under the Land Acquisition Act or under the Punjab Town Improvement Act.

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The provisions of Section 8 of the General Clauses Act, 1897 contemplating that where an Act is repealed and is re-enacted with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as

references to the provision so re-enacted, would not be applicable to a situation where an earlier legislation is incorporated in the subsequent legislation. The subsequent amendment, modification, repeal or substitution would not be applicable where the earlier legislation, since re-enacted, was incorporated in the Act. Therefore, the repeal of Land Acquisition Act, 1894 by 2013 Act would stand on the same footing and would not be applicable to the acquisition of land under the Punjab Town Improvement Act, 1922.”

In view of the aforesaid decision, the petitioner cannot claim benefit of Section 24(2) of the 2013 Act as well.

Consequently, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

NOVEMBER 26, 2015
‘D. Gulati’

(SNEH PRASHAR)
JUDGE