

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

**CWP No.4258 of 2015
Date of decision: 20.4.2015**

Swaran Singh

.....Petitioner

Vs.

**Land Acquisition Collector, Jalandhar Improvement Trust, Jalandhar
and others**

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHAR DHAWAN**

Present: Mr. P.S.Jammu, Advocate with Mr. Varun Sharma, Advocate
for the petitioner.

Ajay Kumar Mittal,J.

1. Through the present petition under Articles 226/227 of the Constitution of India, the petitioner prays for quashing the award dated 22.6.1962, Annexure P.4 passed by the Land Acquisition Collector, Jalandhar, as the said acquisition was never acted upon by the respondents as well as the land owners. No compensation was paid to the land owners and possession of the acquired land remained with the land owners in view

of Section 24(2) of the Land Acquisition Act, 1894 (in short, "the Act"). Further prayer has been made for directing respondent No.2 to issue no objection certificate with regard to the land/plot of the petitioner for the purpose of construction.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Gopal Singh, father of the petitioner had purchased land measuring 8 kanals from one Sudarshan Lal Mehendru vide sale deed dated 6.2.1950. He remained owner in possession of the said land till his death and thereafter, his estate was inherited by his sons namely Harbhajan Singh, Ajit Singh, Swaran Singh, Charanjit Singh, Hardayal Singh, Gurdeep Singh and Parwinder Singh in equal shares i.e. 160/669 share each vide mutation No.18149. As per Jamabandi for the year 1974-75, father of the petitioner had been shown as owner in possession of land situated in Khewat No.74, Khatauni No.83, Khasra Nos.6186, (3-8), 6187 (3-4), 6188 (2-18), 6189 (0-14), 6190 (0-7), 6193 (1-0), 6194 (1-0), 6195 (2016), 6196 (3-2), 6197 (2-12), 6198 (4-3), 18181/6199 (4-4), 6202 (2-6), 18190/6199 (1-15) i.e. 160/669 shares out of 33 kanals 9 marlas land - total land measuring 8 kanals in the area of Village Jalandhar Beat No.307, Tehsil and District Jalandhar. Till today, the petitioner alongwith his brothers is continuously owner in possession of the above said land. As per Jamabandi for the year 1994-95, with regard to Khewat No.99/114, Khasra Nos.18189/6199 (4-4), 6200(2-6), 6186(3-8), 6187 (3-4), 6196(3-2), 6197(2-12), 6198 (4-3), 18190/6199 (1-15), out of 160/669 shares of 24 kanals 14 marlas, total area measuring 5 kanals 18 marlas was inherited by the petitioner as well as his brothers. Out of the above said land, land situated in Khasra Nos.6189 (0-14), 6190 (0-7), 6193

(1-0) measuring 2 kanals 1 marlas was acquired and mutation of the above said land was entered in favour of the Improvement Trust, Jalandhar as per Jamabandi for the year 1994-95, Annexure P.3. According to the petitioner, the possession of the above said land remained with him. Award dated 22.6.1962, Annexure P.4 was passed by the Land Acquisition Collector. The Government of Punjab acquired land measuring 14 acres for an unknown scheme and the land of Gopal Singh, father of the petitioner was part of acquired land i.e. 8 kanals 4 marlas. As per averments in the petition, though the award was passed but possession of the land was never taken by the government of Punjab and no compensation was paid to the land owners. Other land owners erected their commercial buildings but the land owned by the petitioner alongwith his brothers remained a vacant plot. In pursuance to the award, ownership qua the land measuring 2 kanals 2 marlas was entered in favour of the Jalandhar Improvement Trust, Jalandhar but possession remained with the petitioner. The petitioner filed representation dated 12.8.2014, Annexure P.5 to the respondent authorities but no action was taken. Hence the instant writ petition.

3. As per averments in the petition, the land was acquired in the year 1962. The present petition has been filed in the year 2015 after an inordinately long period of more than five decades. The petitioner kept quiet for so many years. The possession of the land had been taken by the respondents. The petitioner or his predecessor-in-interest had remained silent for the last more than five decades to claim now that no compensation had been paid for the acquired land. In such a situation, claim of non-receipt of compensation sought to be agitated after more than five decades, shall cast the onus on the petitioner to prove that the compensation had not been

paid to him. In the absence of any material to substantiate the averments made in the writ petition, we are not inclined to entertain the petition after a period of more than five decades.

4. In *Leelawanti and others vs. State of Haryana and others*, (2012) 1 SCC 66, in similar situation wherein also, land acquired in 1976 was sought to be returned by sending a legal notice in the year 1999, the Apex Court repelled the argument of the petitioners in view of the principles of delay and laches while upholding the judgment dated 21.1.2008, passed by a Division Bench of this Court in CWP No.9152 of 2007 titled *Leelawanti vs. State of Haryana*. The relevant observations on the issue of delay and laches are as under:-

“13. We have considered the respective submissions and examined the records. In our view, the High Court did not commit any error by not entertaining the appellants' challenge to the acquisition of land because they did not offer any explanation for the long time gap of more than three decades between the issue of notifications under sections 4 and 6 i.e. 1976 and filing of the writ petition i.e. 2007.”

5. In the present case, the petitioner after the expiry of more than five decades has made prayer for quashing the impugned award dated 22.6.1962. A stale claim is sought to be raked up by way of present petition. In view of the above, the claim of petitioner could not be considered.

6. On a query being put to the learned counsel for the petitioner that in the light of Jamabandi for the year 1994-95, Annexure P.3, ownership of the land had been transferred in the name of Improvement Trust, it was claimed that it was wrongly recorded. However, there is nothing on record to show that the petitioner had ever made any claim for

compensation and the same was never paid to him.

7. Faced with this situation, learned counsel for the petitioner stated that he may be allowed to withdraw the instant writ petition with liberty to avail the appropriate remedy in accordance with law.

8. Dismissed as withdrawn with liberty as prayed for.

(Ajay Kumar Mittal)
Judge

April 20, 2015
'gs'

(Shekhar Dhawan)
Judge