

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

**CWP No.4656 of 2015 (O&M)
Date of decision: 17.3.2015**

Ram Dutt and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Sanchit Punia, Advocate for the petitioners.

Ajay Kumar Mittal,J.

1. Prayer in this petition filed under Articles 226/227 of the Constitution of India is for quashing notifications dated 3.9.1976 and 7.9.1976 under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act") whereby the land of the petitioners was acquired for the public purpose, namely, for setting up wrist watch manufacturing factory by M/s Indo Swiss Time Limited in Village Dundahera, Tehsil and District Gurgaon.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Notification under Section 4 read with clause (c) of sub section (2) of section 17 of the Act was issued on 3.9.1976 whereby 28.18 acres of land of Village Dundahera was intended to be acquired for the public purpose, namely for setting up the wrist watch manufacturing factory by M/s Indo Swiss Time Limited in Village Dundahera, Tehsil and District Gurgaon. The land belonging to the petitioners existed in Hadbast No.66, Village Dundahera, District Gurgaon, Khasra Nos.103/206-29/9/3(0-13), 11/2(0-9), 12/1(1-0), 12/5(0-9), 13/1/4(0-5), 29/18/3(0-11), 19/1/1/(4-1), 19/2/1(0-9), 20/1(4-9), 30/15/3/2, 16/1(4-13), 29/8(0-5), 11/1/2(4-9), 12/4/2(2-13), 13/1/3/2, 112/237-30/15/2(3-0), 113/239, 241, 243, 245 -29/1(3-3), 10(5-12), 30/5/2(4-8), 6(7-11), 14/(8-0), 15/1(4-12), 119/256, 257 -30/17(8-0), 18(6-13), 124/271-33/3(8-0), 126/275-29/21/2(5-16), 22/2(1-19), 30/25/2(5-16), 33/5/2(3-0), 34/1(6-15) and 140/291-30/13(2-8). Notification under Section 6 of the Act was issued on 7.9.1976. After acquisition, the said land was transferred to M/s Indo Swiss Times Limited company in 1979 as per Jamabandi Annexure P.4. According to the petitioners, the gap period between 1976 to 1979 proved that there was no urgency and the acquisition was liable to be set aside. Legal notice dated 20.1.2015 (Annexure P.12) was sent by the petitioners to the respondents. Having heard no response, the petitioners have approached this Court through the instant writ petition.

3. We have heard learned counsel for the petitioners and perused the record.

4. As per averments in the petition, the land was acquired in the year 1976. It was not disputed that the possession of the land had also been

taken by the Government in the same year. In *National Thermal Power Corporation Limited v. Mahesh Dutta and others*, (2009) 8 SCC 339, it was held by the Apex Court that if possession of the land had been taken over in respect of which notification had already been issued, the State would be divested of its power to withdraw from the acquisition in terms of Section 48 of the Act. Accordingly, the challenge to the acquisition on the ground that the purpose for which it was acquired was not being carried out would not justify the release of the land.

5. In *Leelawanti and others vs. State of Haryana and others*, (2012) 1 SCC 66, in similar situation wherein also, land acquired in 1976 was claimed 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.”

6. In the present case, the petitioners after the expiry of about four decades has made prayer for quashing the notifications. A stale claim is sought to be raked up by way of present petition. Even otherwise, no basis or any provision of law has been referred whereby the claim of petitioners

could be considered. Further, learned counsel for the petitioners was unable to substantiate the averments made in the writ petition with reference to any material on record.

7. Accordingly, finding no merit in the petition, the same is dismissed.

(Ajay Kumar Mittal)
Judge

March 17, 2015
'gs'

(Rekha Mittal)
Judge