

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

**CWP No.5367 of 2015 (O&M)
Date of decision: 23.3.2015**

Davinder Kumar Kansra

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

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

Present: Mr. Rajiv Joshi, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Prayer in this petition filed under Articles 226/227 of the Constitution of India is for quashing notifications dated 21.5.1964, Annexures P.1 and P.1/A under Sections 4, 6 and 17 of the Land Acquisition Act, 1894 (in short, "the Act") on the ground that no compensation has ever been paid to the petitioner or the predecessors-in-interest whose land was acquired and the scheme is deemed to have lapsed as per provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013 Act"). Further prayer for release of the land has also been made.

2. A few facts relevant for the decision of the controversy

involved as narrated in the petition may be noticed. The State of Punjab through Department of Public Works issued notifications dated 21.5.1964 under Sections 4, 6 and 17 of the Act simultaneously for acquisition of land measuring 14.48 acres situated in Village Tikhawal, Tehsil Mukerian, District Hoshiapur for the alleged public purpose of additional earth work in Zone Nos. 1, 3, 4 and 5 and road crossings of new railway siding from Mukerian to Talwara. Land measuring 18 kanals 2 marlas situated in the said village belonging to Shri Mulk Raj son of late Shri Fakir Chand, grandfather of the petitioner was also included. The land was subsequently, handed over to Chief Engineer (Construction) II, Northern Railway, Baroda House, New Delhi. According to the petitioner, as per information through RTI, the said land has not been utilised and is lying unused. No notice was given to the petitioner as per provisions of proviso to Section 17(2) of the Act. No compensation was given to the grandfather of the petitioner. The petitioner represented to the authorities under the State of Punjab to either grant him compensation for the acquisition or release his land. He sent legal notice dated 10.4.2013, Annexure P.6 to the authorities through his counsel. Having heard no response, he has filed the instant petition.

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

4. As per averments in the petition, the land was acquired in the year 1964. The present petition has been filed in the year 2015 after an inordinate long period of 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 last about 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.

5. 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.

6. 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.”

7. In the present case, the petitioner after the expiry of more than five decades has made prayer for quashing of the notifications. 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.

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

(Ajay Kumar Mittal)
Judge

March 23, 2015
'gs'

(Rekha Mittal)
Judge