

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

**CWP No.6803 of 2015
Date of decision: 10.4.2015**

Sohan Lal and others

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

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

Present: Mr. C.M.Munjhal, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. By way of present petition filed under Articles 226/227 of the Constitution of India, the petitioners pray for issuance of a writ in the nature of mandamus directing the respondents to initiate proceedings for acquisition of the land as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013 Act") as earlier notifications Annexures P.3 and P.4 under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the 1894 Act") have lapsed on the ground that no compensation has been given for the acquired land.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Originally, Het Ram,

Sohan Lal and Devi Lal, predecessors-in-interest of petitioner Nos. 5 to 7 were owners in possession of the land comprised in Rectangle Nos.26K Killa No.16/2, 22/2(0-8), 23/2(0-11), 24/1/2(0-16), 24/2/2(0-10), 25/2/2(0-5), 27M, Killa No.3/(1-4), 21/2(0-17), 4/2(1-14), 8/2(2-14), 9/2(0-5), 11/2(0-11), 13/2(0-3) and 49 Killa No.2/1/1(0-9), 3.1(1-18), 4/1/(1-3) - total 14 K, 18 marlas as per Jamabandis for the years 1968-69 and 1977-78, Annexures P.1 and P.2 respectively. The respondent department in order to construct Tahliwala drain from RD-02 to RD-52500 issued notification under Section 4 of the 1894 Act dated 13.1.1965, Annexure P.3 for acquiring 76 acres of land from 7 Villages in the form of strip of the land measuring 52500 feet in length. Out of this, land measuring 11.71 acres of Village Hiranwala belonging to the petitioners was proposed to be acquired and for that a joint notification was issued for all 7 villages under Section 4 of the Act and on the basis of urgency provisions under Section 17 of the Act. On 23.1.1965, respondent No.2 preferred to issue notification, Annexure P.4 under Section 6 of the Act with respect to the land of the petitioners. The possession of the land was taken and the purpose for which the land was acquired i.e. construction of Tahliwala drain was also undertaken. According to the petitioners, neither they nor their predecessors in interest were having any knowledge about the passing of the award and at no point of time any compensation was awarded to them. The petitioners aver that if after the award for more than five years, the compensation has not been paid, the acquisition proceedings shall be deemed to have lapsed and appropriate government shall initiate proceedings afresh in accordance with Section 24 of the 2013 Act. The petitioners also sent legal notice dated 22.3.2014, Annexure P.6 to the respondents for making the payment of

compensation but no action has been taken on the said notice. The petitioners also filed CWP No.17280 of 2014 which was dismissed as withdrawn. Hence the instant writ petition.

3. We have heard learned counsel for the petitioners.

4. The land was acquired in the year 1965. The present petition has been filed in the year 2015 after an inordinately long period of five decades. The possession of the land had been taken by the respondents. The petitioners or their predecessors-in-interest had remained silent for such a long period 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 petitioners to prove that the compensation had not been paid to them. In the absence of any material to substantiate the averments made in the writ petition, we are not inclined to entertain the petition after such an inordinate delay.

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 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.”

6. In the present case, the petitioners after the expiry of more than five decades have made prayer based on the plea that no compensation has been paid to them without substantiating the same. A stale claim is sought to be raked up by way of present petition. In view of the above, the claim of petitioners could not be considered.

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

(Ajay Kumar Mittal)
Judge

April 10, 2015
'gs'

(Rekha Mittal)
Judge