

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

**CWP No.8107 of 2015
Date of decision: 07.05.2015**

Rajender Singh Yadav

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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

Present: Mr. Kulvir Narwal, Advocate for the petitioner.

Ajay Kumar Mittal, J.

1. The petitioner seeks quashing of notifications dated 30.1.1989 and 25.1.1990, issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act") and the award dated 18.7.2011, Annexures P.3 to P.5 respectively.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Land of the petitioner was acquired by the State of Haryana vide notifications dated 30.1.1989 and 25.1.1990 issued under Sections 4 and 6 of the Act for the development and utilization of commercial/industrial/transport Sectors 33-34, Gurgaon. The award was announced by the Land Acquisition Collector on 18.7.2011. According to the petitioner, no compensation had been given to him. He further asserts that where the award has been made five years or more prior to the commencement of the new Act i.e. Right to Fair Compensation and

Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (in short, “the 2013 Act”) but the physical possession of land has not been taken or the amount has not been paid, the acquisition proceedings shall be deemed to have been lapsed and the only remedy is to initiate proceedings afresh. Thus, the case of the petitioner is covered by Section 24 (2) of the 2013 Act. There was stay dispossession by this court in CWP No.4677 of 1990 filed by one of the co-sharer Fateh Singh. The said writ petition was admitted. Another CWP No.3983 of 1990 was filed in which similar interim order was passed. The above writ petitions were dismissed on 18.3.2011 but the the petitioner is still continuing in possession of the land on account of three rooms and boundary wall constructed thereon. Hence the instant writ petition.

3. We have heard learned counsel for the petitioner.

4. It is undisputed that the land of the petitioner was acquired by issuance of notifications dated 30.1.1989 and 25.1.1990 issued under Sections 4 and 6 of the Act for a public purpose namely for the development and utilisation of commercial/industrial/transport Sectors 33-34, Gurgaon. In so far as challenge to these notifications on merits is concerned, the present petition has been filed in the year 2015 after an inordinately long period of 25 years. Even after the passing of the award on 18.7.2011, a period of about four years has elapsed. The petitioner had remained silent for such a long period to challenge the acquisition proceedings now.

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.”

Additionally, CWP No.4677 of 1990 filed by Fateh Singh, one of the co-sharer and similarly CWP No.3983 of 1990 were dismissed on 18.3.2011.

6. Examining the issue regarding benefits under Section 24(2) of the 2013 Act is concerned, it would be expedient to reproduce the provision which reads thus:-

“**24(2)**. Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under

section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

7. A plain reading of the aforesaid provision clearly spells out that it is applicable in those cases where the award is announced five years or more prior to coming into force of 2013 Act. In the present case, the award having been announced on 18.7.2011 does not satisfy the essential requirements of Section 24(2) of the 2013 Act.

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

(Ajay Kumar Mittal)
Judge

May 07, 2015
'gs'

(Rekha Mittal)
Judge`