

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

CWP No.9967 of 2015

Date of decision:18.8.2015

Gurdeep Singh Bhullar

....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Sudeep Mahajan, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the notification dated 26.04.1982 published under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') and the notification dated 31.08.1982 published under Section 6 of the Act for acquisition of land at the public expense, for 'public purpose' namely for setting up of a Cotton Yarn and Spinning Mill at Bathinda.

In pursuance of the aforesaid notifications, an Award No.1, for the year 1982-1983 was announced on 04.02.1983 by Land Acquisition Collector, copy of the same is attached with the writ petition as Annexure P-3. The said award mentions that the land has been acquired for M/s Monta Polytex at Bathinda and that none of the land-owners has raised objections regarding kind of land being acquired by the Company except Sh. Mangal Singh son of Harnam Singh, Supinder Singh son of Ram

Singh, Ayodhaya Lal son of Wazir Chand, Santa Singh son of Kheta Singh, Gurdev Singh son of Jit Singh, Ajaib Singh son of Sher Singh and others, Gurdas Singh, Gurdev Singh, Ajmer Singh sons of Siri Ram.

Incidentally, the petitioners or their predecessors are not the one who objected to the acquisition of land and/or classification of the land. In pursuance of such award, the mutation of the land acquired was mutated on 30.08.1983 (Annexure P-5). The petitioner has thereafter received the amount of compensation and also made a reference for enhancement of compensation under Section 18 of the Act.

It is thereafter, the present writ petition has been filed on 01.05.2015 alleging therein that the State has transferred the land in favour of a private company, therefore, such transfer is counter to the judgment of Hon'ble Supreme Court in M/s. Royal Orchid Hotels Ltd & Anr v. G. Jayarama Reddy & Ors, AIR 2011 SC 2598.

We have heard learned counsel for the petitioner and find no merit in the present writ petition. The land was acquired way back in the year 1983. The acquired land is mutated in favour of the state government alone. The petitioners or their successors have not objected to acquisition, in fact, claimed enhanced compensation as well.

In a judgment reported as State of Orissa and another v. Mamata Mohanty, (2011) 3 SCC 436, Hon'ble Supreme Court held that though the Limitation Act, 1963 does not apply in writ jurisdiction but the doctrine of limitation being based on public policy, the principles enshrined therein are applicable. The Court also found that if a litigant approaches the Court after coming to know of the relief granted by the

Court in a similar case, the same cannot furnish a proper explanation for delay and laches. The Court observed as under:-

“53. Needless to say that Limitation Act 1963 does not apply in writ jurisdiction. However, the doctrine of limitation being based on public policy, the principles enshrined therein are applicable and writ petitions are dismissed at initial stage on the ground of delay and laches. In a case like at hand, getting a particular pay scale may give rise to a recurring cause of action. In such an eventuality, the petition may be dismissed on the ground of delay and laches and the court may refuse to grant relief for the initial period in case of an unexplained and inordinate delay. In the instant case, the respondent claimed the relief from 1.1.1986 by filing a petition on 11.11.2005 but the High Court for some unexplained reason granted the relief w.e.f. 1.6.1984, though even the Notification dated 6.10.1989 makes it applicable w.e.f. 1.1.1986.

54. This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time. (See: M/s Rup Diamonds & ors. v. Union of India & ors, AIR 1989 SC 674; State of Karnataka & Ors. v. S.M. Kotrayya & Ors., (1996) 6 SCC 267; and Jagdish Lal & Ors. v. State of Haryana & Ors., AIR 1997 SC 2366).”

Thus even on the basis of the judgment in Royal Orchids’s case (supra), the petitioner cannot be granted any relief. Firstly, the mutation of the land in question is in the favour of the State Government; secondly, the petitioners have not objected to acquisition of the land for the company; thirdly, the writ petition has been filed more than 32 years of acquisition. The Supreme Court has held that invocation of jurisdiction of the Court on the basis of judgment given earlier is not a ground on which

the proceedings can be permitted to be raised. The plea of delay and laches is glaring. The petitioner has acquiesced in the acquisition proceedings for almost 32 years. The petitioners cannot be permitted to dispute acquisition solely based upon a later judgment of Hon'ble Supreme Court.

We find that the writ petition suffers from gross delay and laches. Consequently, the same is dismissed.

(HEMANT GUPTA)
JUDGE

AUGUST 18, 2015
'D. Gulati'

(RAJ RAHUL GARG)
JUDGE