

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

Date of decision: 13. 01.2016

CWP No.142 of 2016

Mehar Singh & others

....Petitioners

Vs.

State of Haryana & others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE SNEH PRASHAR**

Present: Mr. Surjit Singh Salar, Advocate,
for the petitioners.

HEMANT GUPTA, J.

The petitioners have invoked the writ jurisdiction of this Court for quashing of notifications dated 26.09.2007 (Annexure P-13) and 25.09.2008 (Annexure P-14) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act') respectively as well as Award dated 24.09.2010 (Annexure P-15).

The sole grievance of the petitioners is that there existing residential houses over an area measuring 1 Kanal 10 Marla purchased by the petitioners in the year 2002. Therefore, in terms of the Policy of the State Government, such construction is liable to be exempted from acquisition.

Earlier the petitioners filed CWP No.1709 of 2015 before this Court, which was dismissed as withdrawn on 30.07.2015 with liberty to file fresh petition on the same cause of action. The Court observed that the issue with regard to delay and laches in approaching the Court after 5 years would also be examined at that stage.

The petitioners have not filed any objections to the notification published under Section 4 of the Act on 26.09.2007. In fact, the petitioners averred to the following effect:

“9. That a survey was conducted and in the survey, the houses of the petitioners were also noted. Therefore, the officials who were conducting survey told to the petitioners that the petitioners need not to worry as their houses which were existing prior to 26.09.2007 shall not be acquired. Therefore, petitioners did not even submit the objections.”

In the absence of objections, the State Government proceeded to publish notification under Section 6 of the Act on 25.09.2008 and later announced Award on 24.09.2010. In the Award dated 24.09.2010 (Annexure P-15), it is asserted that possession of acquired land is taken after offering compensation. However, possession of land under wherein there was protection in the certain writ petitions was not taken. As mentioned earlier, the petitioners have not disputed acquisition prior to the filing of the writ petition in the year 2015, which was withdrawn on 30.07.2015.

Learned counsel for the petitioners relies upon an order passed by the Hon'ble Supreme Court in Patasi Devi Vs. State of Haryana & others (2012) 9 SCC 503, to contend that even in the absence of objections, the land over which construction has been raised is liable to be exempted from acquisition.

Having heard learned counsel for the petitioners, we do not find any merit in the present writ petition. It is categorical case of the petitioners that they have not filed objections to the notification under Section 4 of the Act, though they were aware of the acquisition proceedings, which could be made out from para 9 of the writ petition, as reproduced above. Whether the construction was raised prior to the issuance of notification under Section 4 of

the Act, is a question of fact. The petitioners have not asserted such fact before the Authorities at the relevant stage. The petitioners allowed not only the notification under Section 6 of the Act to be published, but also the Award was announced in the year 2010. The petitioners have approached this Court by way of a writ petition after more than 5 years of announcing of the Award. In the absence of assertion of the construction at the first available opportunity, the petitioners cannot be permitted to assert that there was construction prior to the publication of notification under Section 4 of the Act. The Court will come to the help of a vigilant person and not a person, who sleeps over his right, if any.

In Patasi Devi's case (supra), the acquisition was challenged on the ground that the acquisition is colourable exercise of power, as the land was proved to be acquired for the benefit of a colonizer. Since, in the present case, the land has been acquired for a public purpose namely 'for the development and utilization of land for residential area for Sectors 2 Part, 3, 4 & 5, Pinjore' and the petitioners have not filed objections to the notification under Section 4 of the Act, we find that at this stage, the petitioners cannot be permitted to dispute the acquisition proceedings, which stand concluded way-back in the year 2010.

Consequently, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(HEMANT GUPTA)
JUDGE

13.01.2016
Vimal

(SNEH PRASHAR)
JUDGE