

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1 CWP-18759-2015 (O&M)
Date of Decision: August 10, 2016

Suresh Kumar and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

2 CWP-18762-2015 (O&M)

Pankaj Thakur and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.Nandan Jindal, Advocate
for the petitioners.
Mr.P.S.Bajwa, Addl.AG, Punjab.
Mr.G.C.Garg, Advocate
for respondent No.3.

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SURYA KANT, J.

[1] By this common order, we dispose of above-stated two Civil
Writ Petitions bearing Nos.18759 and 18762 of 2015.

[2] The petitioners seek modification of the Awards passed by the
Land Acquisition Tribunal, Improvement Trust Bathinda with a further
direction for enhancement of compensation of their land in terms of
judgment dated 10.03.2014 passed by this Court in CWP-3603-2012

(Nachattar Singh and other vs State of Punjab and others) whereby compensation in the case of other land owners whose land was also acquired alongwith that of petitioners for development of “16.44 Acres” Scheme, was enhanced.

[3] Respondent No.3, i.e. Improvement Trust, Bathinda (for short, 'the Trust'), has filed its separate reply. The factum of acquisition of land of the petitioners or slight enhancement made by this Court in the compensation in favour of similarly placed owners are not in dispute. The Trust has, however, taken a preliminary objection of delay and laches on the part of petitioners.

[4] We have heard learned counsel for the parties with reference to the preliminary objection taken by the Trust.

[5] It is true that the petitioners have approached this Court after a considerable delay. It is well settled that where a litigant is found to have slept over the matter and allowed the grass to grow under his feet, he can be deprived of his legitimate rights by a writ Court in exercise of its discretionary jurisdiction. It is equally apt to restate that the delay, *per se* is not an impediment or embargo against the exercise of equitable jurisdiction. It is a rule of estoppel evolved by the Court against a negligent litigant though he may have a right enforceable through the Court of law.

[6] The acquisition of land for the purpose of development of a Scheme by the Trust is made under the Punjab Improvement Trust Act, 1922, (for short, 'the 1922 Act') read with provisions of the Land Acquisition Act, 1894 (since repealed) (for short, 'the 1894 Act'). Under the 1894 Act, the Legislature itself introduced an equity and equality clause through Section

28A to accord right to an affected owner to seek compensation at par with similarly placed land-losers who have meanwhile succeeded in getting their compensation enhanced from the Appellate or Superior Courts by way of appeal etc.. Further more, where the right under consideration pertains to monetary claim, the writ Court can modulate the relief in such a manner that neither the enforceable rights are denied nor it leads to unjust enrichment.

[7] We are of the considered view that such a recourse can be effectively evolved in the cases in hand and the equities can be well balanced by denying interest for the period of unexplained delay on the part of petitioners.

[8] In the light of above discussion, we hold that though the petitioners are entitled to claim parity with other land losers and seek the same amount of enhanced compensation for their acquired land as awarded by this Court vide judgment dated 10.03.2014 in Nachattar Singh and others (supra) but since they have chosen to approach the Court after more than 7 years, it is directed that the statutory interest on the enhanced amount of compensation shall be paid to them only from 01.01.2016, as they have filed the writ petitions in the last week of August, 2015.

[9] The writ petitions stand allowed in above terms.

(SURYA KANT)
JUDGE

August 10, 2016
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(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No