

CWP No.21482 of 2014

[1]

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

**CWP No.21482 of 2014
Date of decision:12.01.2016**

Kaka Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Naresh Kaushal, Advocate,
for the petitioner.

Mr. Neeraj Madan, Advocate,
for respondents No.2 and 3.

Rakesh Kumar Jain, J.

Vide notification issued under Section 29(A) of the Railways Act, 1989 (hereinafter referred to as the “Act”) followed by the Railways (Amendment) Ordinance, 2008, land of the petitioner measuring about 4 acres, situated in village Ajnali, Tehsil Amloh, District Fatehgarh Sahib, was acquired for the public purpose, namely, for execution, maintenance, management and operation of the Railway Project, Eastern Dedicated Freight Corridor in the District of Fatehgarh Sahib. Respondent No.3 announced the award on 28.11.2011, assessing the compensation payable to the petitioner to the tune of ₹6,14,21,670/-, which also admittedly included 10% “No Litigation Premium” i.e. ₹39,62,888/-. The compensation was paid on 06.09.2012 by Cheque No.006991 drawn on the Union Bank of India, Fatehgarh Sahib.

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The petitioner has allegedly purchased 12 Kanals of land in village Bhadla Uchha, Tehsil Khanna, District Ludhiana vide Vasika No.3951 dated 07.03.2014 for a sale consideration of ₹19,45,000/- in which he had to pay stamp duty along with other expenses to the tune of ₹1,99,900/- and had also purchased land measuring 90 Kanal 19 Marlas, situated in village Alipur, Tehsil Khanna, District Ludhiana, vide Vasika No.3950 dated 07.03.2014, for the sale consideration of ₹2,27,38,000/-, wherein the stamp duty along with other expenses was of ₹39,62,888/-. The petitioner admittedly made an application on 31.05.2014 for refund of the stamp duty and since it was not refunded, therefore, the present petition has been filed for seeking a declaration to hold the time limit prescribed in the Entitlement Matrix for the dedicated freight corridor project based on RAA 2008 and NRRP-2007 as illegal, wherein it is provided that the refund of the stamp duty and registration charges, incurred for purchasing the land out of the compensation amount paid, has to be made within one year only from the date of payment of compensation.

Counsel for the petitioner has argued that the petitioner has not been refunded the amount of stamp duty and registration charges, incurred by him while executing the aforesaid two sale deeds in which he had paid the sale consideration from the amount of compensation received on account of the award dated 28.11.2011, only because of the reason that the sale deeds have been executed after the expiry of one year, whereas the time limit has been provided as one year in the Entitlement Matrix for the dedicated freight corridor project based on RAA 2008 and NRRP-2007,

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which is otherwise contrary to the time limit fixed by the Punjab Government of 2 years, where the compensation derived from the acquisition of land, if invested in the land within two years, would entitle the said person for refund of the stamp duty and registration charges. It is submitted that the land is, in any case, situated in the State of Punjab and for that matter, the provisions of the Punjab Government should apply in which two years' limitation is provided for purchase of the land instead of one year.

On the other hand, counsel for the respondents has submitted that the period of one year has been categorically fixed under Section 20(H) of RAA 2008, which has not been challenged by the petitioner and all that has been said in this petition is that the petitioner could not purchase the land despite his best efforts within a period of one year.

I have heard learned counsel for the parties and examined the available record.

There is no dispute that the land of the petitioner was acquired under the provisions of the Act followed by the Railways (Amendment) Ordinance, 2008 and the compensation has been paid on 06.09.2012 which has been invested by the petitioner by way of two sale deeds dated 07.03.2014. The petitioner is claiming refund of the stamp duty and registration charges, whereas the relevant provisions in the Entitlement Matrix for the dedicated freight corridor project based on RAA 2008 and NRRP 2007 reads as under:-

“(VIII). refund of stamp duty and registration charges incurred for replacement land to be paid by the project;

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replacement land must be brought from the date of payment of compensation to affected party as defined in Section 20(H) of RAA 2008.”

The petitioner's case is that the period provided in the aforesaid provision is too short as even the petitioner had purchased the land from the compensation amount by putting a great effort. This argument does not appeal to logic because a period of one year is sufficiently long period for the purpose of purchasing the land especially when the party, who wanted to purchase the land, has the readily available cash amount with him. It cannot be decided in the writ petition as to whether the petitioner started making efforts after the expiry of one year or just after receiving the compensation on 06.09.2012 for the purpose of purchasing the land from the amount of compensation as he has also averred in the petition that he was not aware of the said provision. Since the compensation has been paid to the petitioner under the relevant provisions of the Act and the concession has been granted in the Entitlement Matrix under the dedicated freight corridor project for refund of the stamp duty and registration charges, he cannot take shelter of any other provisions much-less of the Punjab Government, as alleged, and has to follow the aforesaid provisions as per which the prayer made by the petitioner was also time barred.

Thus, in these facts and circumstances, there is hardly any reason for this Court to interfere in this matter in favour of the petitioner and hence, the present petition is hereby dismissed being denuded of any merit.

January 12, 2016
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(Rakesh Kumar Jain)
Judge