

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

CWP No. 13860 of 2016 (O&M)

Date of decision : 10.7.2017

Bachu Singh and others

.. Petitioners

versus

The State of Haryana and others

.. Respondents

Coram: **Hon'ble Mr. Justice Rajesh Bindal**
 Hon'ble Mr. Justice Gurvinder Singh Gill

Present: Mr. Adarsh Jain, Advocate, for the petitioners.

 Mr. Ankur Mittal, Additional Advocate, General, Haryana.

Rajesh Bindal, J.

The petitioners have filed the present petition impugning the acquisition of land. Notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') was issued on 14.8.2008. Urgency provisions under Section 17 of the Act were invoked. Notification under Section 6 of the Act was issued on 30.8.2008. The award was announced by the Land Acquisition Collector (for short, 'the Collector') on 27.8.2010.

Learned counsel for the petitioners submitted that as the public purpose shown in the notification under Section 4 of the Act was for utilization of land for Master Plan Roads of Sectors 75-89, Faridabad, the petitioners never raised issue regarding invocation of urgency clause by challenging the acquisition in dispute. Lateron, the petitioners came to know that the land owned by them, which was sought to be acquired for construction of Master Plan Roads, was in fact not required for that purpose. Large chunk of land acquired vide same notification was released in favour of the builders prior to even after announcement of award by the Collector.

The petitioners filed application under the Right to Information Act, 2005 (for short, 'the RTI Act') on 30.8.2011 seeking information as to for what purpose the land owned by the petitioners was acquired. In response, vide memo dated 18.10.2011, it was clarified that the land was acquired for Master Plan Roads in Sectors 75-89 Faridabad, for which award was passed by the Collector. Further query was raised by the petitioner under the RTI Act on 5.1.2012. The information was supplied vide memo dated 17.1.2012 that as per the approved road circulation plan Sectors 75-89, Faridabad, the acquired land owned by the petitioners was not in the alignment of Master Plan Roads. The submission is that the acquisition of land owned by the petitioners does not fall within the road alignment, for which the same was acquired, hence, the acquisition is itself bad and deserves to be set aside.

On the other hand, learned counsel for the State submitted that the writ petition deserves to be dismissed on the ground of delay and laches. Notifications under Sections 4 and 6 of the Act were issued on 14.8.2008 and 30.8.2008, respectively. The award was announced by the Collector on 27.8.2010. The petition has been filed more than five years thereafter. In fact, some of the landowners, who were aggrieved against invocation of urgency clause, filed CWP No.6363 of 2010, which was disposed of vide judgment dated 27.5.2011 setting aside the notification under Section 6 of the Act qua the petitioners therein with liberty to them to file objections under Section 5A of the Act. After consideration of objections filed by those landowners, fresh notification under Section 6 of the Act in that case was issued on 1.3.2012. The award was announced by the Collector on 9.8.2012. The petitioners had complete information

available with them regarding the ground sought to be raised in the writ petition on 17.1.2012, when application filed by the petitioners under the RTI Act was replied to. Still thereafter, the writ petition was filed more than four years thereafter. In support of the plea regarding delay and latches, reference has been made to the judgments of Hon'ble the Supreme Court in Civil Appeal No.4065 of 1999 titled as Urban Improvement Trust, Udaipur vs. Bheru Lal and others, decided on 20.9.2002, Star Wire (India) Ltd. vs. State of Haryana, (1996) 11 SCC 698, Municipal Council Ahmednagar vs. Shah Hyder Beig, (2000) 2 SCC 48, C. Padma vs. Dy. Secretary to the Government of Tamil Nadu, (1997) 2 SCC 627 and M/s Swaika Properties Pvt. Ltd. vs. State of Rajasthan, JT 2008 (2) SC 280.

Heard learned counsel for the parties.

The notifications under Sections 4 and 6 of the Act were issued on 14.8.2008 and 30.8.2008, respectively. In the case in hand, it is not in dispute that the petitioners were aware of the acquisition proceedings after the announcement of award. The petitioners filed two applications under the RTI Act on 30.8.2011 and 5.1.2012, which were responded to by the Public Information Officer vide memos dated 18.10.2011 and 17.1.2012, respectively. The ground as is sought to be raised now by filing the writ petition four years and six months after the information was received by the petitioners vide memo dated 17.1.2012, is that the acquired land of the petitioners does not fall within the road alignment, hence, the acquisition being bad as it was not meant for the purpose mentioned in the notifications under Sections 4 and 6 of the Act, the same should be quashed. Once, the petitioners had complete information regarding the facts sought to be

pleaded for challenging the acquisition more than four years and six months back, the petition filed after such huge delay deserves to be dismissed on the ground of delay and laches only.

Accordingly, the petition stands dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

10.7.2017
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No