

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.22037 of 2017 (O&M)

Date of Decision:- 26.09.2017

Anand Parkash Sharma and others

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present:- Mr. Rajiv Kataria, Advocate for the petitioners.

Rajesh Bindal, J.

The petitioners have approached this Court with the following prayers:-

a. Issue a writ in the nature of certiorari or any other appropriate writ or direction to the effect that the acquisition of the land measuring 16 bighas 2 biswas in Khasra No.639 in Karnal, District Karnal acquired vide notification dated June 10, 1955 under Section 4 and Section 17(4) of the Land Acquisition Act, 1894 be declared to have lapsed and have been dropped by the respondent State. OR

b. Issue a writ of mandamus to the effect that the respondents be directed to hand over the possession of the said land to the petitioners or in the alternative some similarly situated land in the vicinity be given to the petitioners, as the land of the petitioners stands possessed and used by the respondents since 26.10.1959. AND

c. Further a writ of mandamus be issued to respondents to pay compensation/mesne profits to the petitioner since 1959, for use and occupation of their land without payment of any compensation.

The case set up by the petitioners is that though the land was initially acquired invoking urgency provisions, however, later on it was released. The landowners were given option to deposit the compensation back. Though other land owners whose land was acquired vide same notification had not deposited back the compensation, but the petitioners claimed that their predecessors in interest had deposited back the compensation in State Bank of India, Karnal on 26.10.1959 vide challan Nos.94 and 95. Eversince, then the petitioners had been representing the government/authorities for return of their land or for allotment of alternate land, but the same is not being considered. It is in the light of aforesaid facts that the prayers, as referred to above, have been made in the present writ petition.

After hearing learned counsel for the petitioners, in our opinion, the present petition deserves to be dismissed on account of delay and laches. The notification under Section 4 of the Land Acquisition Act, 1894, as claimed by the petitioners was issued on June 10, 1955. It is pleaded that the petitioners and other land owners, whose land was acquired, were given option to deposit back the amount of compensation received by them, in case they wanted the land back. As a result of this, the petitioners deposited back the compensation on 26.10.1959, though other land owners had not deposited the same back. Eversince then, the petitioners had been representing to the authorities to return back the land. Though there are certain communications annexed by the petitioners on record, which continued after gaps till the year 1980, but thereafter, there was a gap of 8 years as next representation was in 1988. Thereafter, the petitioners kept quiet and sought information under Right to Information

Act in the year, 2013, about 25 years thereafter, which was responded to while stating that no record as sought by the petitioners was available. All the petitioners are well educated.

Considering the fact that the issue with reference to which the petitioners are seeking relief from this Court arose way back in the year 1959 and nearly six decades are going to expire, we do not find any reason to entertain the present petition.

As far as the plea raised by the petitioners regarding lapsing of acquisition under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Act") it is the case set up by the petitioners themselves that they had been paid the compensation by the State at the time of acquisition of the land and the possession thereof had also been taken. The only plea sought to be raised is that they had returned the compensation.

In view of the aforesaid factual matrix, it may be a matter in dispute. Keeping in view long lapse of time in between, section 24(2) of the Act will also not come to rescue of the petitioners.

Dismissed.

(Rajesh Bindal)
Judge

26.9.2017

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

(Gurvinder Singh Gill)
Judge