

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

CWP 12768 of 2018 (O&M)

Date of decision: 24.8.2018

Jai Chand and others

.. Appellants

VS

State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Sudip Ahluwalia**

Present Mr. Sachin Mittal, Advocate, for the appellants.

Rajesh Bindal, J.

The prayer in the present writ petition is for a direction to the respondents to acquire the land of the petitioners, which is being utilized by the respondents.

Briefly, it is stated that the land of the petitioner was sought to be acquired for which notification under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the Act') were issued on 21.4.1987 and 2.4.1988, respectively. Acquisition was challenged before this Court. Vide judgment dated 2.6.2000 passed in CWP No. 5155 of 1990 – Kehar Singh and another vs State of Haryana, the acquisition was quashed. Despite this fact, the land was still utilized without any acquisition. It is not in dispute that the petitioners had filed number of writ petitions in this Court thereafter. The first in the series being CWP No. 1754 of 2001 - Mehar Singh and another vs State of Haryana seeking a direction to the respondent therein to inform the petitioners therein about the amount of compensation

to be returned. The same was disposed of giving liberty to the petitioners claim at any subsequent stage that they had done their duty by offering to deposit back the amount of compensation received by them at the time of acquisition of land. The fact remains that calculation of exact amount of compensation including interest to be returned may be one factor but the petitioners did not even deposit the amount of compensation, which was received by them from the State on account of acquisition of land. Thereafter, father of petitioner nos. 1 to 3, Sher Singh filed CWP No. 17068 of 2002 Sher Singh vs State of Haryana and others, challenging the acquisition, where notification under Section 4 of the Act was issued on 21.4.1987. The writ petition was dismissed on 12.1.2011, while recording that the petitioner had filed CWP No. 12022 of 2004 without disclosing the fact of filing of earlier writ petition. Relevant lines from the aforesaid order are extracted below:-

“CWP No. 17068 of 2002 is also liable to be dismissed in view of the fact that petitioner- Sher Singh has also filed CWP No. 12022 of 2004 without disclosing the aforesaid facts of the earlier writ petition. Resultantly, all the writ petitions are dismissed except allowing CWP No. 12022 of 2002 to the extent of relief granted to petitioner Nos. 2, 9 and 16 of the said writ petition as aforesaid. No costs.”

Thereafter, father of petitioners no. 1 to 3, Sher Singh, got a legal notice dated 24.1.2003 issued to the official respondents calling upon them not to include his land for acquisition. Subsequent thereto, Sher Singh filed another CWP No. 3750 of 2003- Sher Singh vs State of Haryana and others seeking a direction for excluding his land from layout plan and in the alternative directing them to acquire the same by issuing appropriate

notification. The same was disposed of on 7.3.2003 directing the official respondents to take decision on the legal notice dated 24.1.2003. The prayer made in the present is identical i.e. seeking a direction to the respondents to acquire the land owned by the petitioners, which has already been utilized. The order passed by this Court was complied with as the claim made in the legal notice was disposed of by passing speaking order dated 28.5.2003. The order dated 28.5.2003 was challenged by filing CWP No. 4762 of 2004 Sher Singh vs State of Haryana and others. The writ petition was dismissed on 6.2.2008. The relevant para from the aforesaid order is reproduced hereunder:-

“The other prayer for issuance of direction to the respondents not to include his land in the Urban Estate Jagadhri would also not survive nor the prayer for re-deciding the legal notice dated 21.1.2003 (Annexure P.14) would survive, once order dated 28.5.2003 (Annexure P.16) has been upheld. However, no opportunity is provided for cancelling the adjudication made by the division bench vide order dated 21.5.2004 in CWP No. 17068 of 2002 (Annexure R-1). On the contrary learned counsel for the petitioner kept on arguing that the matter is entirely different. The contention is wholly misconceived and does not deserve to be accepted.”

It is claimed by learned counsel for the petitioners that the aforesaid order was challenged before Hon'ble the Supreme Court. Leave to Appeal was granted. Civil Appeal Nos. 11193-11194 of 2011 – Sher Singh vs The State of Haryana and others, was disposed of on 14.9.2015, giving liberty to the appellant to make appropriate request before the appropriate authority/ forum for consideration of his claim. It is important to notice that

the appeals filed before Hon'ble the Supreme Court were withdrawn with liberty to avail of appropriate remedy in terms of provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Three years after passing of the order by Hon'ble the Supreme Court, the present writ petition has been filed claiming the same relief, which was claimed way back in the year 2003 and was not pressed either before this Court or before Hon'ble the Supreme Court.

Keeping in view the aforesaid facts, we do not find any case is made out for interference in the present writ petition, as it cannot be left at the whims and fancies of the litigant, to claim a particular relief at any time by filing repeated petitions and then not pressing the prayer at final stage, though specifically claimed and then file a fresh petition to claim the same relief.

The writ petition stands dismissed.

(Rajesh Bindal)
Judge

24.8.2018
vs

(Sudip Ahluwalia)
Judge

Whether speaking/ reasoned	Yes/No
Whether Reportable	Yes/No