

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

CWP No.13426 of 2018

Decided on : 19.11.2018

Kiran & others

... Petitioners

Versus

State of Haryana & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.Shahid Hussain, Advocate, for
Mr.Ashok Kaushik, Advocate, for the petitioners.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order dated 29.12.1976 (Annexure P-1), whereby land was acquired for the purpose of development and utilization for residential area in Sectors N.18 & 19 in the area of Village Faridabad in Ballabgarh Faridabad controlled area, vide notification dated 01.10.1973, in pursuance of which, the award has been passed.

A period of almost 42 years has gone by since then. The husband of petitioner No.1 had served a legal notice on 20.03.2003 (Annexure P-4), for compensation of the land which is measuring 160 sq.yards, which was part of the acquired land, which comprised of 6.46 acres. He never chose to file any such proceedings against the award and at this belated stage, the petitioners have, now, raised the issue that they have not received any compensation and neither have been allotted any alternate plot. The legal notice served by the husband of petitioner No.1 would go on to show that the land was acquired around 29.10.1976 and compensation @ Rs.40,000/- was awarded by the Land Acquisition Collector, which remained in the account of the LAC and accordingly,

interest @ 18% per annum was claimed, as per the said notice.

Thus, there is an inordinate delay, as such, in taking the recourse to the legal redressal. The Apex Court in **State of Maharashtra Vs. Digambar 1995 (4) SCC 683** has held that in cases of delay, as such, no directions are liable to be issued, it is settled principle that the law is for the vigilant and not for those who sleeps over their rights. Relevant portion of the judgment read thus:

“23. Therefore, where a High Court in exercise of its power vested under [Article 226](#) of the Constitution issues a direction, order or writ for granting relief to a person including a citizen without considering his disentitlement for such relief due to his blame-worthy conduct of undue delay or laches in claiming the same, such a direction, order or writ becomes unsustainable as that not made judiciously and reasonably in exercise of its sound judicial discretion, but as that made arbitrarily.

24. Since we have held earlier that the person seeking grant of relief under [Article 226](#) of the Constitution, even if it be against the State, is required to satisfy the High Court that he was not guilty of laches or undue delay in approaching it for relief, need arises for us to consider whether respondent in the present appeal (writ petitioner in the High Court) who had sought for relief of compensation on the alleged infringement of his legal right, had satisfied the High Court that he was not guilty of undue delay or laches in approaching it for relief. The allegation of the petitioner in the writ petition, as becomes clear from the judgment under appeal, was that although certain extent of his land was taken away in the year 1971-72 by the agency of the State for the scarcity relief road works undertaken by the State Government in the year 1971-72, to find work for small agriculturists and agricultural labourers in the then prevailing severe drought conditions, without his consent, he was not compensated therefor, despite

requests made to the State Government and various agencies in that regard ever since till the date of filing of the writ petition by him.

25. In our view, the above allegation is in no way sufficient to hold that the writ petitioner (respondent here) has explained properly and satisfactorily the undue delay of 20 years which had occurred between the alleged taking of possession of his land and the date of filing of writ petition in the High Court. We cannot overlook the fact that it is easy to make such kind of allegations against anybody that too against the State. When such general allegation is made against a State in relation to an event said to have occurred 20 years earlier, and the State's non- compliance with petitioners' demands, State may not at all be in a position to dispute such allegation, having regard to the manner in which it is required to carry on its governmental functions. Undue delay of 20 years on the part of the writ petitioner, in invoking the High Court's extraordinary jurisdiction under [Article 226](#) of the Constitution for grant of compensation to his land alleged to have been taken by the Governmental agencies, would suggest that his land was not taken at all, or if it had been taken it could not have been taken without his consent or if it was taken against his consent he had acquiesced in such taking and waived his right to take compensation for it.”

Accordingly, this Court is of the opinion that at this belated stage, no case is made out for calling upon the respondents to file reply. Resultantly, finding no merit in the present writ petition, the same is hereby dismissed in limine.

November 19th, 2018
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*