

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

[1] Review Application No.523 of 2017 in
Civil Writ Petition No.26372 of 2015
Date of Decision: March 12, 2018

Khiali Ram and othersPetitioners
versus
State of Punjab and othersRespondents

[2] Review Application No.524 of 2017 in
Civil Writ Petition No.25750 of 2015

Dr.Mohan Lal Garg and othersPetitioners
versus
State of Punjab and othersRespondents

[3] Review Application No.526 of 2017 in
Civil Writ Petition No.7430 of 2016

Vijay Kumar and othersPetitioners
versus
State of Punjab and othersRespondents

[4] Review Application No.527 of 2017 in
Civil Writ Petition No.26038 of 2015

Gulab Kaur and othersPetitioners
versus
State of Punjab and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SHEKHER DHAWAN.**

Present: Mr.Salil Sagar, Senior Advocate with
Mr.Sankalp Sagar, Advocate, for the applicant-respondent No.3.
Mr.Amit Aggarwal, Advocate, for the non-applicant-petitioners.

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Surya Kant, J. (Oral)

This order shall dispose of Review Application Nos.523, 524, 526 and 527 of 2017 as all these applications have been moved by the Improvement Trust, Bathinda against a common order dated 08.08.2016 passed in a bunch of writ petitions, i.e., CWP Nos.25750, 26038, 26372 of 2015 and 7430 of 2016, whereby the writ petitions were allowed in part and the writ-petitioners/land-owners were held entitled to the same amount of

enhanced compensation as was granted to other expropriated land-owners. The writ-petitioners, however were denied the statutory interest on the enhanced amount of compensation from the due date and the same was limited w.e.f. 01.01.2016 only due to inordinate delay of seven years in filing the writ petition.

[2] For brevity, the facts are being extracted from RA No.523 of 2017

[3] The State of Punjab acquired 16.44 acres land situated within the municipal limits of Bathinda Town, for the purpose of a development scheme conceptualized by the Improvement Trust, Bathinda. The Land Acquisition Collector passed the Award dated 23.12.1988 against which the matter was eventually decided by the Land Acquisition Tribunal (Improvement Trust)-cum-District Judge, Bathinda vide Award dated 13.06.2008, whereby the amount of compensation was further enhanced.

[4] Still dissatisfied, some of the land-owners approached this Court for further enhancement and a Division Bench of this Court to which one of us (Surya Kant, J.) was a member, vide order dated 10.03.2014 passed in a bunch of writ petitions including **CWP No.3603 of 2012 (Nachhattar Singh and others versus State of Punjab and others)** further enhanced and awarded the compensation @ Rs.166/- per square yard.

[5] The writ-petitioners in the instant case chose to seek the above-mentioned enhanced amount of compensation by way of writ petitions filed in the year 2015. The Review-applicant-Improvement Trust, Bathinda, took a preliminary objection of delay and laches in its written statement(s) as the Land Acquisition Tribunal had passed the award in the year 2008, whereas the enhanced compensation was sought by way of writ petitions filed in the

year 2015.

[6] This Court was fully conscious of the objection raised by the Improvement Trust, Bathinda as is discernible from para-5 of the order under review dated 08.08.2016, which reads as follows:-

“...[5]. It is true that the petitioners have approached this Court after a considerable delay. It is well settled that where a litigant is found to have slept over the matter and allowed the grass to grow under his feet, can be deprived of his legitimate rights by a writ Court in exercise of its discretionary jurisdiction. It is equally apt to restate that the delay, *per se* is not an impediment or embargo against the exercise of equitable jurisdiction. It is a rule of estoppel evolved by the Court against a negligent litigant though he may have a right enforceable through the Court of law.....”

[7] In the context of the above-stated objection, this Court viewed as follows:-

“..... Furthermore, where the right under consideration pertains to monetary claim, the writ Court can modulate the relief clause in such a manner that neither the enforceable rights are denied nor it leads to unjust enrichment....”

[8] It was further held that:-

“...[7] We are of the considered view that such a recourse can be effectively evolved in the cases in hand also and the equities can be balanced for duration of unexplained delay on the part of the petitioners.

[8] In the light of the above discussion, we hold that though the petitioners are entitled to claim parity with other land owners and seek the amount of enhanced compensation for their acquired land as has been awarded by this Court vide judgment dated 10.03.2014 in

Nachattar Singh and others (supra) but in CWP Nos.25750 of 2015 and 26372 of 2015, the petitioners have chosen to approach this Court after 7 years, hence, it is directed that the statutory interest on the enhanced amount of compensation shall be payable to them only from 01.01.2016, as they have filed the writ petitions in December 2015.....”

[9] It may thus be seen that those land-owners who had approached this Court promptly were awarded statutory interest on the enhanced amount of compensation from the due date, whereas, the land-owners like the writ-petitioners in this case who came belatedly, were denied such benefit and the interest component was restricted w.e.f. 01.01.2016 only.

[10] Suffice to observe that equitable jurisdiction was exercised by this Court in such a manner that the legislative object like behind Section 28-A of the Land Acquisition Act, 1894 could be achieved without any premium on the considerable delay in filing the writ petitions.

[11] The Improvement Trust, Bathinda felt aggrieved of the order of this Court dated 08.08.2016 and approached the Hon'ble Supreme Court by way of SLP (Civil) Nos.4197-4200 of 2017 which were disposed of with liberty to the Improvement Trust to file the instant Review Applications on the question of maintainability of the writ petitions.

[12] We have heard learned counsel for the parties at a considerable length and gone through the record.

[13] The judgment cited on behalf of the Review Applicants, reported as Foreshore Co-operative Housing Society Limited versus Praveen D.Desai (Dead) through LR.s. and others, AIR 2015-SC-2006

appears to be distinguishable as the objection to the jurisdiction of a Court

limitation, has to be decided as a preliminary issue. In the absence of express applicability of law of limitation to writ proceedings, this Court has to be guided by principles of public policy which were thus kept in view while allowing the writ petitions in part.

[14] Similarly, the judgment in **State of Orissa and another versus Mamata Mohanty, (2011) 3 SCC 436** clearly holds that Limitation Act, 1963 does not apply to writ jurisdiction. However, doctrine of limitation based on public policy, the principles enshrined thereunder are applicable. Similarly, in **State of Karnataka and others versus S.M.Kotrayya and others, (1996) 6 SCC-267**, there arose question of limitation keeping in view the express provision contained in the Administrative Tribunal Act, 1985. In **Mewa Ram (deceased) by his LRs and others versus State of Haryana, (1986) 4 SCC 151**, their Lordships declined to entertain the belated SLP under Article 136 of the Constitution seeking grant of enhanced compensation at par with other land-owners. The cited judgment is distinguishable on facts, for in the case in hand, the other land-owners were granted enhanced compensation in the year 2014 and the subject writ petitions were filed in the year 2015.

[15] In **Brijesh Kumar and others versus State of Haryana and others, (2014) 11 SCC 351**, the Apex Court has authoritatively ruled that inordinate delay caused by inaction or negligence lacking *bonafides* would disentitle a claimant the protection of Section 5 of the Limitation Act, 1963. As noticed earlier, in the instant case there was no issue of condonation of delay under the Limitation Act.

[16] The Division Bench judgment of this Court in **General Gurnam Singh Public School and others versus State of Punjab and**

others, 1992(4) SLR 378 also does not advance the case of the review-applicants as this Court has held in the cited case that High Court in exercise of its writ jurisdiction is not precluded from investigating into the facts, if necessary, particularly when matter pertains to enforcement of fundamental rights. The judgment restates to discretionary powers exercisable by a writ Court under Article 226 of the Constitution.

[17] In the case in hand, this Court was fully aware of the delay on the part of the land-owners, for which they were denied the exact parity and the interest was awarded to them only w.e.f. 01.01.2016. In this view of the matter, it cannot be said that there is any error apparent on record or that this Court did not deal with the plea of maintainability of writ petition raised on behalf of the Improvement Trust.

[18] Dismissed.

[SURYA KANT]
JUDGE

March 12, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

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