

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

**CWP No. 10742 of 2019
Date of decision : 18.10.2019**

Hamrinder Singh

.....Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present : Mr. S. S. Salar, Advocate for the petitioner.

* * *

DAYA CHAUDHARY, J.

Petitioner Hamrinder Singh has filed the present petition seeking direction to respondent No.2 to allot a plot as per the policy in lieu of the land of his father acquired for development-cum-housing scheme. Father of the petitioner expired on 24.12.2017. The petitioner inherited all movable and immovable properties owned by his father on the basis of registered Will dated 05.04.2013, which was executed in his favour being the only son.

Learned counsel for the petitioner submits that land of petitioner's father was acquired by Improvement Trust, Ludhiana as per notification published under Section 36 of the Punjab Town Improvement Act, 1922 (for short – “the Act”). The award was pronounced on 08.08.1975. The petitioner being the legal heir of his father, whose land was acquired, was entitled to a plot measuring 500 square yards but the same has not been allotted. Learned counsel also submits that claim of the petitioner has been rejected wrongly without giving any reason, whereas similarly situated persons were allotted plots.

Heard arguments of learned counsel for the petitioner. We have also perused the documents available on the file.

Admittedly, the land of petitioner's father was acquired much earlier and the award was pronounced on 08.08.1975. Notification under Section 36 of the Act was published on 08.06.1973 and notification under Section 42 of the Act was issued on 26.07.1974. Father of the petitioner expired on 24.12.2017. The delay has not been explained either in the petition or in the arguments. In response to representation made by the petitioner it was informed by the respondent-Trust that there was no entry of depositing the earnest money, which shows that the earnest money has not been deposited. Subsequently, a request was made by the petitioner after a long period to deposit the earnest money. Petitioner remained silent for years together. Similarly situated persons applied well in time and deposited the earnest money also and as such the petitioner cannot claim parity.

The petitioner should have approached the concerned authority well in time but no such efforts were made. There is an inexplicable delay of years together. Even the earnest money was not deposited. There was no reason for the petitioner to await for years together in approaching the Court. We are to keep in mind that the benefit of the scheme for allotment of plot is to be availed within some reasonable time. The object of the scheme is to give plot to rehabilitate the persons, whose land has been acquired. Such persons have to file appropriate application within reasonable time and in case the claim of any such person is rejected then he/she should avail the legal remedy without any delay. It is not only the delay and laches which are important factors while considering the claim of the petitioner but while exercising discretionary power under Article 226 of the Constitution of India, the reasonable time is to be kept

in mind. In case there is such negligence or omission on the part of the petitioner to assert his right, he is not entitled to invoke discretionary relief under Article 226 of the Constitution of India.

In a number of judgments, this Court has held that it is well-settled proposition of law that the claimed relief under Article 226 of the Constitution of India is discretionary and ground for refusing the same under Article 226 is that the petitioner has filed petition after a reasonable delay. In case the delay has been explained satisfactorily then it can be condoned. In case the petitioner is guilty of laches and the delay has not been explained properly then the Court cannot exercise the discretion in his favour. In absence of reasonable explanation, no discretionary relief can be granted. The same view has been held by Hon'ble the Apex Court in case titled ***Tamil Nadu Housing Board Chennai Vs. M. Meiyappan and others 2011(1) R.C.R. (Civil) 12*** and ***Union of India and others Vs. Har Dayal 2010(1) R.C.R. (Civil) 545***.

In the present case also there is a delay of more than 43 years after passing of the award and that delay has not been explained. Accordingly, keeping in view the facts and the law position as discussed above, there is no merit in the contentions raised by learned counsel for the petitioner and the present petition being devoid of any merit is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

Dated : 18.10.2019
sunil yadav

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No