

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 714 of 2020**

1. Smt. Sindhu Bai Gaidhane W/o Late Pholchand Aged About 76 Years R/o New Shanti Nagar Raipur, Tahsil And District Raipur Chhattisgarh.,
2. Jayant Gaidhane S/o Late Fulchand Aged About 57 Years R/o New Shanti Nagar Raipur, Tahsil And District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Acting Through The Collector Raipur Chhattisgarh.
2. Commissioner Raipur Division, Raipur Chhattisgarh.
3. Sub Divisional Officer, Land Acquisition Officer Abhanpur, District Raipur Chhattisgarh.
4. New Raipur Development Authority Acting Through Chief Executive Officer, Raipur Chhattisgarh

--- Respondents

For Petitioner	: Shri K.A. Ansari, Sr. Adv, Shri Aman Ansari Adv.
For State	: Shri P. Acharya, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/02/2020**

1. The present writ petition has been filed challenging entire acquisition proceedings initiated by the respondents vide the case no. 51/A-82/2010-2011.
2. The facts of case and as per counsel for the petitioner is that petitioner had purchased land bearing Khasra No. 353/21 and 353/22 area 1.094 hectare (2.70 acre) in the year 1986 by registered sale deed from the original owner Gangji. The petitioner recently came to know about the fact that the land which was in the name of the petitioner has been altered in the revenue record and has been entered in the name of government by tampering it. It is at this juncture, the petitioner came to know that the land belonging to the petitioner has been acquired by the respondents.
3. The challenge is to the acquisition proceedings on the ground that the petitioner at no point of time has been informed about the

proceedings, nor he has been noticed even once by the authorities concerned while the Land Acquisition Act was in the process of being finalized. He further submits that petitioner has not been paid any compensation for the said land and the fact that it has been shown as barren land by the respondents also is incorrect as from the sale deed itself, it is evidently clear that there was a house, Motor Pump and the ponds in the said property, all these have not been reflected in the award of the State Government.

4. At the outset, this Court finds that the writ petition suffers from delay and laches. The documents available with the writ petition clearly shows that award u/s 11 of the Land Acquisition Act was passed as early as on 29.05.2013. The present writ petition has now been filed for the first time on 18.02.2020 i.e. after a period of about 7 years. By this time, the award has already attained finality. Further from the documents in the writ petition that is the documents enclosed along with Annexure P/10 clearly reflects that the respondent authorities at the time of initiation of the proceedings had made paper publication in two of the local news papers having wide circulation i.e. "Haribhoomi" and "Dainik Bhaskar".
5. Given the facts that the records show that paper publication had been made by the respondents at the time of proceedings were drawn under the Land Acquisition Act, this Court is of the opinion that it is hard to believe that petitioner was not aware of the acquisition proceedings. Moreover, challenge to the arbitration award ought to have been made within a reasonable period of time. Seven years time is pretty long time for any person to challenge any

award u/s 11 of the Land Acquisition Act that too by filing a writ petition u/s 226 of the Constitution of India.

6. The Supreme Court has by now well settled the position of law, so far as filing of writ petition at the belated stage is concerned.
7. In the matter of **Andhra Pradesh Industrial Infrastructure Corporation Limited v. Chinthamaneni Narsimha Rao and others** (2012) 12 SCC 797 the Supreme Court has allowed the appeal by dismissing the challenge of the land owners on the ground of delay and noticed the earlier decisions. Paragraphs 13, 14, 15 and 16 of the said judgment read as follows: -

“13. This Court has held in several judgments that if the land owners are aggrieved by the acquisition proceedings, they must challenge the same at least before an award is made and the possession of the land in question is taken by the government authorities.

14. It has been held in *Swaika Properties (P) Ltd. & Another vs. State of Rajasthan & Others* (2008) 4 SCC 695 as under:-

“16 This Court has repeatedly held that a writ petition challenging the notification for acquisition of land, if filed after the possession having been taken, is not maintainable. In *Municipal Corpn. of Greater Bombay v. Industrial Development Investment Co. (P) Ltd.* (1996) 11 SCC 501 where K. Ramaswamy, J. speaking for a Bench consisting of His Lordship and S.B. Majmudar, J. held: (SCC p. 520, para 29)

“29. It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the

award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third-party rights were created in the case is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches.”

15. Similarly, in the case of **State of Rajasthan & Ors. V. D.R. Laxmi & Ors.** (1996) 6 SCC 445 following the decision of this Court in the case of Municipal Corporation of Greater Bombay (supra) it was held:

“29.... When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third-party rights were created in the case, is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches. ..”

16. To the similar effect is the judgment of this Court in Municipal Council, Ahmednagar & Another vs. Shah Hyder Beig & Ors. (2000 2 SCC 48) wherein this Court, following the decision of this Court in C. padma and others v. Dy. Secy. to the Govt. of T. N. and Others (1997) 2 SCC 627 held : (Shah Hyder case SCC p. 55, para 17).

“17. In any event, after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceeding thereunder. This has been the consistent view taken by this Court and in one of the recent cases (C. Padma v. Dy. Secy. to the Govt. of T.N. (1997) 2SCC 627)...”

8. Very pertinently and appropriately, the Supreme Court in the matter of **Chennai Metropolitan Water Supply and Sewerage Board and Others V. T.T. Murali Babu** (2014) 4 SCC 108, qua delay, observed as under:-

“17.... A Court is not expected to give indulgence to such indolent persons- who compete with “Kumbhakarna” or for that matter “ Rip Van Winkle”. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ Court should have thrown the petition overboard at the very threshold.”

9. Recently, in the matter of **State of Haryana v. Devendra Sagar** (2016 14 SCC 746, the Supreme Court has reiterated that delay in challenging land acquisition proceeding is fatal.

10. Thus, the legal proposition flowing from the aforesaid decisions with regard to entertaining writ petition in land acquisition matters is that petitioner who knocks the door of the Court with delay must establish strong, exceptional and extraordinary ground to come out from the clutches of delay so as to call the Court for consideration of the case on merits by taking a departure from the well settled principles of law as mentioned supra.

11. Given the aforesaid factual matrix of the case and also considering the judgment of the Supreme Court as discussed in the preceding paragraphs, this Court, only on the ground of delay and laches, does not find a strong case made out by the petitioner calling for interference with the acquisition proceedings and the award dated 29.05.2013 at this juncture.

12. The writ petition thus stands rejected only on the ground of delay.

Sd/-
(**P. Sam Koshy**)
Judge