

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

204

CWP No. 13847 of 2002 (O&M)

Date of Decision: 17th November, 2020

Reshmi Devi

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. Ajay Jain, Advocate for the Petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Dr. S. Muralidhar, J.**CM-14834-2018**

1. Mr. Ajay Jain, learned Counsel for the Applicant/Petitioner, states that in view of the judgment of the Constitution Bench of the Supreme Court in *Indore Development Authority v. Manoharlal AIR 2020 SC 1496*, he seeks leave to withdraw this application.

2. The application is accordingly dismissed as withdrawn.

CM-19213-2009

3. This is an application filed on behalf Kela Devi praying for impleadment as Respondent No. 4 in the present petition.

4. For the reasons stated therein, and without prejudice to the rights and contention of the parties, the application is allowed. The Applicant Kela Devi is impleaded as party Respondent No. 4 in the writ petition.

CWP No. 13847 of 2002

5. This writ petition challenges a notification dated 30th October, 1992 issued under Section 4 of the Land Acquisition Act, 1894 (LAA), a declaration dated

28th October, 1993 issued under Section 6 of LAA and an Award dated 26th October, 1995 for the acquisition of land located in the village Narnaul, District Mohindergarh, which included the land stated to be owned and in possession of the Petitioner viz., Had Bast No. 159, Khewat No. 67, Khatauni No. 118, Khasra No. 1052/2 Min Measuring 1 Biswa, 10 Biswanies (Approximately 200 sq. yards). There is a further prayer for direction to the Respondents to release the aforesaid land.

6. The case of the Petitioner, as stated in para 2 of the writ petition, is that she is the owner of the aforementioned plot, on which she has raised two rooms and a boundary wall. It is stated that the Petitioner has been living in the said plot since the date of its purchase. She further states that the plot was earlier owned by one Ayodhya Prashad and that he sold the plot to her by a registered sale deed dated 21st December, 1987. It is stated that immediately after the purchase she raised the aforementioned construction. Instead of annexing the said sale deed to the present petition, the averment in the petition is that it will be produced “if need be” at the time of hearing of the writ petition.

7. Pursuant to the notice issued in the writ petition, a written statement was filed way back on 16th October, 2003 by the Land Acquisition Officer, Urban Estates, Haryana, Gurgaon on behalf of Respondents No. 1 and 3. In reply to para 2 of the writ petition it is specifically stated therein as under:

“2. That in reply to para No.2 of the writ petition, it is submitted that as per the revenue record petitioner is not the owner in possession of the land in question. It is also wrong and emphatically denied that there was any construction on the land in question. In fact the land was completely vacant at the time of issuance of notification u/s-4 of the L.A. Act. The petitioner has not attached the site plan P-1 for giving specify reply. The petitioner may be directed to supply the copy of the same. The answering respondent reserves his right to reply upon the same as and when is supplied. Remaining para to contrary is wrong and denied.”

8. It may further be noted that a preliminary objection has been raised in the written statement to the fact that the writ petition was filed 7 years after the date of the Award and was accordingly liable to be dismissed on the ground of delay and laches. In response to the averment in para 5 of the writ petition that “the petitioner was not served with any notice nor she was not aware of the acquisition proceedings and as such she could not file any objections under

Section 5-A of the Act”, it is stated in para 5 of the written statement as under:

"5. That in reply to para no.5 of the writ petition it is submitted that petitioner did not file any objection u/s-5A of the L.A. Act. However, it is pertinent to mention here that the petitioner was not the owner in possession of the land in question as per the record. Remaining para to the contrary is wrong and denied."

9. Despite the above written statement being on record for the last 17 years, the Petitioner has not cared to file a replication to counter the above averments.

10. Although Mr. Ajay Jain, learned Counsel for the Petitioner, repeatedly urges that he should, at this stage, be permitted to place on record the sale deed through which the Petitioner has purchased the plot in question, the Court is not inclined to grant such indulgence, considering that the petition itself was filed 7 years after the Award in question was passed and the written statement to the writ petition has been on record for the last 17 years. To permit the Petitioner, at this stage, to bring more documents on record would be a condonation of the abuse of the process of law.

11. In any event, it appears that the Petitioner made no effort to get the revenue record mutated to reflect that she was the owner in possession of the land in question, at the time that the notification under Section 4 LAA was issued. Consequently, the failure to give her notice for acquiring the land in question cannot be faulted.

12. Further, there is no explanation whatsoever for the delay of 7 years on the Petitioner's part in challenging the Award. In such circumstances, the Petitioner cannot expect the Court, in exercise of its jurisdiction under Article 226 of the Constitution, to come to Petitioner's aid.

13. Additionally, it is seen that the Petitioner has sought to place reliance on the fact that another writ petition viz., CWP No. 11009 of 2002 (***Smt. Vidhya Devi v. State of Haryana***) challenging the same very acquisition proceedings has been filed in this Court. Today, Mr. Ankur Mittal, Additional Advocate General, Haryana, informs the Court that the said writ petition stood dismissed by this Court and that no SLP has been filed in the Supreme Court against the said judgment.

14. For all the aforementioned reasons, the Court does not see any ground to grant the relief prayed for by the Petitioner. The writ petition is accordingly dismissed. The status quo order, if any, hereby stands vacated.

(S. MURALIDHAR)
JUDGE

17th November, 2020
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	Yes