

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

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**Civil Writ Petition No.34713 of 2019
Decided on : 12.03.2020**

Mangat Ram and others

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present: Mr. R.D. Yadav, Advocate
for the petitioners.

G.S. Sandhawalia, J. (Oral)

In the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioners who are 26 in number, seek directions to the respondents to grant compensation on account of possession of their respective land without acquiring the same. Directions to grant exemplary damages and mesne profit on account of illegal possession of the land for the last more than 41 years, is also sought for.

The writ petition is bereft of any details as to how much land as such is allegedly in the occupation of the State without paying compensation, apart from inordinate delay which has occurred. There is no material on record to show that any such representation was made at any point of time that the land was occupied by the State without paying any compensation. There is only a reference of Section 4 notification dated 18.04.1978 in a legal notice served on 02.04.2019 (Annexure P-2). Even the legal notice as such does not show that what is the quantum of the land, which is occupied by the State and the details of the land as such, so that this Court can ask the State to give its response.

Neither any explanation has been given as for what reasons such a large number of landowners were silent as such, in spite of the alleged occupation of the land by the State, which is supposed to have been done by the Canal Department, vide Mutation dated 23.01.2018 (Annexure P-1), since the allegation is that the land had been utilized for the construction of the Chidya Rajwaha Minor. Nor any demarcation report has been placed on record to show that the State is in occupation.

The Apex Court in the case of **State of Maharashtra vs. Digambar, 1995 (4) SCC 683** has held that the relief under Article 226 of the Constitution of India is a discretionary relief. Until there is a satisfaction recorded regarding the alleged deprivation of the legal rights, it would not be appropriate to grant any relief. The petitioners have failed to explain the delay for their alleged claim that the amount of compensation had not been paid on account of the Award in question or that the possession has been taken over and which portion of the land was in their ownership and not acquired. The petition is also absolutely vague as to how much area of land as such was taken in possession by the State without following the procedure prescribed.

The allegations are absolutely vague and general and to expect that the State should reply to such vague and general allegations raised in the petition, this Court is of the opinion that it would be unjustified at this point of time to open up the stale claim.

Reliance can be placed upon the observations of the Apex Court made in **Digambar's case (supra)**, which read as under:-

“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 noncompliance 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.”

In similar circumstances, the Division Bench in **CWP No. 26060 of 2015, Azad Singh vs. State of Haryana and others**, decided on 27.04.2017 also rejected the prayer to remove the unauthorized encroachment for construction of water course and for grant of mesne profits on the ground that the issue was more than 65 years old regarding the construction of the irrigation facilities and dismissed the case.

The question of deciding representation, at this belated stage and reviving a dead case, has also been frowned upon by the Apex Court in **CA-2425-2019 titled The Govt. of India & another Vs. P. Venkatesh**, decided on 01.03.2019. The relevant portion reads as under:-

“These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate

appointment over a decade after the death of the deceased employee. This ‘dispose of the representation’ mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee.”

In such circumstances, this Court is of the opinion that the extra-ordinary jurisdiction of this Court is not liable to be exercised, in the facts and circumstances of the case. Accordingly, the present writ petition is dismissed with liberty to the petitioners to resort to their alternative remedies in accordance with law, if any.

MARCH 12, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

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