

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

**CWP No. 16677 of 2021
Date of decision 14.09.2021**

Kamal Yadav

...Petitioner

Vs.

State of Haryana and ors.

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. Rajesh Lamba, Advocate, for the petitioner.

Mr. Ankur Mittal, Addl.A.G, Haryana and
Mr. Saurabh Mago, AAG, Haryana.

Ritu Bahri, J.

Petitioner is seeking setting aside of impugned notification dated 25.04.2008 (P-3), notification dated 22.04.2009 (P-4) and impugned award dated 21.04.2011 (P-5), vide which the land of the petitioner has been notified for acquisition.

Brief facts of the case are that the land of the petitioner along with others was notified by State of Haryana for public purpose, namely for setting up a Chaudhary Devi Lal Industrial Model Township to be planned as an Integrated Complex for Industrial, Commercial and other public utilities by H.S.I.D.C, as per notification under Section 4 of the Land Acquisition Act, 1894 (for short 'Act 1894'), was issued on 25.04.2008 (P-3). A notification under Section 6 of Act 1894 was issued on 22.04.2009 (P-4). The award dated 21.04.2011 was passed thereafter (P-5). The construction on the land sought

same place and is running the area commercially also. The copy of photographs depicting the state of the land in question reflecting the A-class construction and old construction are attached as Annexure P-6 colly.

Petitioner is relying upon a judgment passed by this Court on 03.02.2011 (P-7) in CWP No. 6166-2010 titled as ***Brahm Dutt and others vs. State of Haryana and others***, which was partly allowed on the ground of construction of land.

Learned counsel for the petitioner has vehemently argued that in ***Brahm Dutt's case (supra)***, the State Government has sought to justify the release of land in favour of the private respondents and admitted that it has released 50 acres of land being under forest, 42 acres belonging to Gram Panchayats and 02 acres in favour of others. It was further admitted that 42 acres 07 kanals 15 marlas of land was released in favour of M/s Chinar Estates Private Limited, vide notification dated 07.05.2010 issued under Section 48 of the Act. It was also admitted that land measuring 19 kanals 16 Marlas of M/s Hess Hospitality who had applied for CLU on 12.06.2006 before the initiation of process of acquisition was also executed. Further M/s VSR Infrastructure Pvt. Ltd. had applied for grant of licence for setting up of an industrial township colony on the land measuring 133.777 acres.

Learned counsel for the petitioner has further argued that in ***Brahm Dutt's case (supra)***, the respondent-State therein failed to explain in the site plan (R-1), what is the position of the land, which is shown in black hyphens with the legend objections received dated 02.04.2009 and which was subject matter of notification dated 18.01.2000 issued under Section 4 of the Act. However, the lands shown in Black Hyphens and which has been adjusted and released in the present notification issued under Section 6 of the

Act are again in patches and stand-alone islands, which cannot be adjusted.

This Court, thereafter, was of the view that wherever the constructions of the petitioners have been admitted by the respondents on the acquired land and recommendations were made for release of such lands by the Land Acquisition Collector, are liable to be released and the acquisition proceedings against them were liable to be quashed, subject to the conditions that such lands do not fall in the infrastructure facilities such as widening of road, green belt, ROW, global corridor and change of zones, etc.

Learned counsel for the petitioner while referring to photographs (P-6 colly), is seeking release of the land of the petitioner in view of the order passed in CWP No. 6166-2010, decided on 03.02.2011 (P-7).

Learned State counsel states that the present petition deserves to be dismissed, as the petitioner has approached this Court at a very belated stage.

The short point for consideration in the present writ petition is whether the petitioner can claim parity with the petitioners of CWP No. 6166-2010, , decided on 03.02.2011 (P-7), for release of his land.

It is not in dispute that the petitioner has filed the present petition on 24.08.2021 after a gap of more than 10 years after passing of the award dated 21.04.2011 (P-5).

This question came up for consideration before Hon'ble the Supreme Court of India in a case of *V. Charasekaran and anr. vs. Administrative Officer and others, 2012 (4) R.C.R (Civil) 588* wherein it was held that land, once acquired cannot be restored to the tenure holders/person-interested, even if it is not used for the purpose for which it was so acquired,

withdrawn/abandoned under the provisions of Section 48 of the Act or Section 21 of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. In para 10, 11 and 34, it has been observed as under:-

“10. The relief obtained by some persons, by approaching the Court immediately after the cause of action has arisen, cannot be the basis for other persons who have belatedly filed their petition, to take the benefit of earlier relief provided, for the reason that, such persons cannot be permitted to take impetus of an order passed by the court, at the behest of another more diligent person. (Vide: [Ratan Chandra Sammanta & Ors. v. Union of India & Ors.](#), AIR 1993 SC 2276; [State of Karnataka & Ors. v. S.M. Kotrayya & Ors.](#), (1996) 6 SCC 267; and [Jagdish Lal & Ors. v. State of Haryana & Ors.](#), AIR 1997 SC 2366).

11. In Abhey Ram (dead) by [L.Rs. & Ors. v. Union of India & Ors.](#), AIR 1997 SC 2564, a three Judge Bench of this Court, dealt with an issue similar to the one involved herein. The question that arose was whether the quashing of the notification/declaration under the Act by the court in respect of other matters, would confer benefit upon non- parties also. The Court held as under:

“The question then arises is whether the quashing of the declaration by the Division Bench in respect of the other matters would enure the benefit to the appellants also. Though, prima facie, the argument of the learned counsel is attractive, on deeper consideration, it is difficult to give acceptance to the contention..... If it were a case entirely relating to [Section 6](#) declaration as has been quashed by the High Court, necessarily that would enure the benefit to others also, though they did not file any petition, except to those whose lands were taken possession of and were vested in the State under [Sections 16](#) and [17\(2\)](#) of the Act free from all encumbrances.” (Emphasis added)

34. The appellants have not approached the court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a Court of Equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said court not only with clean hands

but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim “Jure Naturae Aequum Est Neminem cum Alterius Detrimento Et Injuria Fieri Locupletiolem”, means that it is a law of nature that one should not be enriched by causing loss or injury to another. (Vide: [The Ramjas Foundation & Ors. v. Union of India & Ors.](#), AIR 1993 SC 852; [Nooruddin v. \(Dr.\) K.L. Anand](#), (1995) 1 SCC 242; and [Ramniklal N. Bhutta & Anr. v. State of Maharashtra & Ors.](#), AIR 1997 SC 1236).

Further Hon'ble the Supreme Court of India in a case of ***Municipal Corp of Great Bombay vs. Industrial Development and Investment Co. (P) Ltd, 1996 (3) R.C.R (Civil) 647*** was considering a case of delay and laches where the declaration was published in 1979 and the award was made on 24.02.1983, possession was taken on March 4, 1983. The writ petition was filed on 04.07.1983. The writ petition was dismissed on the grounds of delay and laches. In para 29 of the judgment, it has been observed as under:-

“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 loathe 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 Judge dismissing the writ petition on the ground of laches.

Recently, this Court in a case of ***Rajesh Malik vs. State of Haryana and others and connected matters, passed in CWP No. 19246-2017, decided on 30.07.2021*** has dismissed the writ petitions, wherein challenge was to the notifications dated 17.04.2002 (P-5), 10.04.2003 (P-6) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 and the award dated 25.06.2004 therein. The writ petitions were dismissed, keeping in view the judgment of Hon'ble the Supreme Court of India in a case of ***Indore Development Authority vs. Manohar Lal and others, AIR 2020 SC 1496*** and in a case of ***Sehdev Singh and others vs. State of Haryana and others, passed in CWP No. 8878-2018, decided on 11.11.2020***. This Court while dismissing the writ petitions, observed as under:-

*“In the facts of the present case, as per the details given in the written statement, when notification under Section 4 of the Act was issued, total area notified was 1326.04 acres, out of which, 87.89 acres were released under Section 5-A of the Act and thereafter, area measuring 1238.15 acres was notified under Section 6 of the Act of 1894. The award was announced for the area measuring 1227.13 acres. Petitioner(s) cannot claim parity of release of land as per the judgment passed in ***Reshma Footwears (P) Ltd.'s*** case (supra). The writ petition (CWP No.2308 of 2004), in that case, was filed way back in the year 2004, which was allowed on 21.06.2010. The petitioners, in the present petitions, have approached this Court in the year 2017 and as per the judgment passed in ***Indore Development Authority's*** case (supra), once the *Rapat Roznamcha* has been entered, possession would be with the State Government. Even if, possession has been taken and compensation has not been deposited, then the benefit of Section 24 (2) of the Act cannot be invoked by the landowners. “*

Applying the ratio of the above mentioned judgments to the facts

approached this Court at a very belated stage.

(RITU BAHRI)
JUDGE

14.09.2021
G Arora

(ALKA SARIN)
JUDGE