

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1822-2016

Date of decision: 31.08.2022

Harbans Lal

...Petitioner

V/s.

The State of Punjab and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Satveer Singh Badal, Advocate
for the petitioner.

Ms. Anu Pal, Senior DAG, Punjab.

Mr. D.V.Sharma, Senior Advocate with
Mr. Tushar Sharma, Advocate
for respondent No.3.

Ritu Bahri, J. (Oral).

The petitioner is seeking direction to the respondents to decide representation dated 03.10.2015 (Annexure P-8) with further direction to the respondents to transfer the ownership of land comprising in Khewat No. 2296, Khatoni No. 6526, Khasra No. 2535 (0-5) as per jamabandi for the year 1977-78 in his name as the entire acquisition proceedings issued vide notification dated 12.12.1974 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act, 1894) have been set aside vide judgment passed in *CWP-869-1981* titled as *Parkash Singh son of Shri Bachhittar Singh vs. The State of Punjab and others*, decided on 22.02.1983 (Annexure P-4).

The case of the petitioner is that he purchased land measuring 5 Biswas (250 sq.yds.) comprising Khasra No. 2535 in the area of Bathinda, Patti Mehna from Ajit Singh s/o Gopi Ram r/o Bathinda vide sale deed

dated 05.09.1973. The mutation of the said sale deed was sanctioned in his favour vide mutation No. 6285 dated 24.09.1973. Jamabandi for the period 1977-78 is attached as Annexure P-1 to show his ownership.

The respondent Department issued notification dated 12.12.1974 under Section 4 of the Land Acquisition Act, 1894 (Annexure P-2) for acquisition of the land measuring 1847 Bighas 7 Biswas. Khasra No. 2535 owned by the petitioner was also part of this acquisition. The petitioner has placed on record judgment passed in **CWP-556-1985** titled as ***Jito Singh and others vs. The State of Punjab and another*** (Annexure P-3) which was filed by Jita Singh @ Ajit Singh (from whom the petitioner had purchased the land) for challenging the notifications under Sections 4 and 6 of the Act, 1894. The said petition was allowed on 13.03.1985 in terms of the judgment passed in **CWP-869-1981** titled as ***Parkash Singh son of Shri Bachhittar Singh vs. The State of Punjab and others***, decided on 22.02.1983 (Annexure P-4) whereby the notifications issued under Sections 4 and 6 of the Act, 1894 stood withdrawn or abandoned as per instructions dated 28.10.1979. The **SLP(C) No. 8333 of 1985** filed against the order dated 13.03.1985 passed in **CWP-556-1985** was also dismissed (Annexure P-5).

After notice of motion, reply by way of the affidavit of the Special Secretary, Housing and Urban Development Department dated 02.08.2016 was filed on behalf of respondents No. 1 and 2. The stand taken in the said reply is the land of the petitioner was acquired vide award dated 22.03.1978 and the possession of the land was also delivered to the Estate Officer, Urban Estate vide rapat No. 731 dated 11.07.1978. The petitioner

had already received compensation vide cheque No. 695448 dated 10.08.1978 with the learned District Judge, Bathinda.

In compliance of order dated 25.05.2016, a separate additional affidavit of the Special Secretary, Housing and Urban Development Department was filed on 02.08.2016. In this additional affidavit, it is stated that cost of Rs.50,000/- (Rs.25,000/- per case) has been deposited with the Secretary, Punjab State Legal Service Authority vide receipt No. 921100 dated 14.07.2016 by the Bathinda Development Authority which is the beneficiary of acquisition of the land. Further, the enquiry is being conducted to find out who was guilty in not filing reply in time.

Vide order dated 08.08.2016, Bathinda Development Authority, Bhagu Road, Bathinda through its Chief Administrator Anil Kumar Garg was ordered to be impleaded as respondent No.3. Separate written statement dated 21.07.2016 has been filed by respondent No.3 as well. It is stated therein that the petitioner had already received compensation vide cheque No. 695448 dated 10.08.1978 as is evident from LA-9 serial No. 144 and possession was also delivered to the Estate Officer, Urban Estate vide rapat No. 731 dated 11.07.1978. A copy of the Rapat Roznamcha is attached as Annexure R-3/1. With respect to **CWP-869-1981**, the ground for challenge was that if possession of the land was not taken within one year of the issuance of Section 6 notification, the notification would be deemed to have lapsed. However, in the present case, Section 6 notification was issued on 02.01.1978 and the award was passed on 22.03.1978. The possession was delivered by rapat No. 731 dated 11.07.1978. Hence, there was no question of the notification having lapsed. Respondent No. 3 has

also placed on record order dated 21.11.2001 passed in Civil Appeal Nos. 4904-4905-1991 as Annexure R-3/3 whereby the appeals filed by the State Government were allowed.

The petitioner did not file replication to the written statements filed on behalf of the respondents.

After hearing learned counsel for the parties, the facts not in dispute are that the land in question had been acquired vide award dated 22.03.1978 after issuing notifications under Sections 4 and 6 of the Act, 1894. After passing of the award, Rapat Roznamcha was entered (Annexure R-3/1) and the possession of the land was also delivered to the Estate Officer, Urban Estate vide rapat No. 731 dated 11.07.1978.

The case of the petitioner, in the present case, is that the entire acquisition proceedings with respect to land in question have been set aside as per the judgment passed in **CWP-869-1981** titled as ***Parkash Singh son of Shri Bachhittar Singh vs. The State of Punjab and others***, decided on 22.02.1983 (Annexure P-4). However, the acquisition proceedings attained finality as it is evident that the possession was delivered to the Estate Officer, Urban Estate vide rapat No. 731 dated 11.07.1978 as admitted by respondents No. 1 and 2 in the reply by way of affidavit dated 02.08.2016 and also by respondent No. 3 in his separate written statement dated 21.07.2016. The petitioner had already received compensation vide cheque No. 695448 dated 10.08.1978. Further, the award was passed on 22.03.1978 and the present writ petition has been filed challenging the acquisition proceedings on 25.01.2016 i.e. after considerable delay of more than 38 years. At this stage, a reference can be made to a judgment passed

by the Division Bench of this Court in **CWP-22143-2011** titled as **M/s. Shiv Shakti Foods vs. State of Haryana and others**, which was dismissed on 29.11.2011 with cost of Rs.10,000/- keeping in view that the acquisition proceedings had been challenged after considerable delay of more than eight years. While dismissing the said petition, reference was also made to the Supreme Court judgment passed in **State of Madhya Pradesh vs. Bhai Lal, AIR 1964 Supreme Court 1006**.

As per recent judgment passed by Division Bench of this Court in **CWP-19431-2015** titled as **Bhim Singh and others vs. State of Haryana and others**, pronounced on 29.07.2022, the challenge was made to notifications issued way back in the years 1977 and 1980 and the award was passed on 02.11.1986. While considering the provisions of Section 24(2) of the Act, 2013, reference was made to the judgment passed by the Constitution Bench of Hon'ble Supreme Court in **Indore Development Authority Vs. Manohar Lal and others AIR 2020 SC 1496** in which it has been held that the provisions of Section 24(2) of the Act, 2013 would apply to pending proceedings where possession has not been taken and compensation has not been paid and not to the case where acquisition proceedings have concluded long back. The Division Bench further observed that re-opening of the acquisition proceedings after efflux of time cannot be allowed as procuring legible records poses a challenge. Once the acquisition proceedings attained finality, the land vests with the State free from all encumbrances and no ground to interfere with the acquisition proceedings under Section 24(2) of the Act, 2013 is made out.

Keeping in view of the above facts, this writ petition is

dismissed.

(RITU BAHRI)
JUDGE

31.08.2022

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No