

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

CWP No. 26854 of 2019

Date of decision:- 26.08.2022

Nepal Singh and ors.

...Petitioners

Vs.

State of Haryana and ors.

...Respondents

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

Present: Mr. Gurjeet Singh, Advocate, for the petitioners.

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

Ritu Bahri, J.

Petitioners are seeking direction to the respondents to acquire the land comprised in Khewat No. 971/943, Khasra Nos. 474/3 (10-3), 474/4 (10-4), 474/5 (10-4), 474/1 (52-15), 474/2 (17-3), 474/7 (60-13), 474/6 (18-17) situated in the revenue estate of Bhiwani Lohar Tehsil and District Bhiwani, as per Jamabandies (P-1 to P-8), in terms of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act of 2013') and to award the compensation to the petitioners, in accordance with the law.

Brief facts of the case are that petitioners are owners of the land comprised in Khewat 971/943, Khasra No.s 474/3 (10-3), 474/4 (10-4), 474/5 (10-4), 474/1 (52-15), 474/2 (17-3), 474/7 (60-13), 474/6 (18-17) situated in the revenue estate of Bhiwani Lohar Tehsil and District Bhiwani to the extent of their respective shares. The petitioners and their forefathers are continuously being shown as owners in possession of the aforesaid land, to the extent of their respective shares, in the jamabandi for the years 1960-61, 1977-

78, 1982-83, 1987-88, 1992-93, 1997-98, 2001-02 and 2002-03, as per Annexure P-1 to P-8, respectively.

The aforesaid land of the petitioners is under the use and occupation of the respondent no.3 since the year 1963 without acquiring the same and paying compensation to the petitioners and other land owners. This fact is admitted by the respondents under the RTI Act and copies of the replies dated 21.01.2010 and 27.01.2010 (P-9 and P-10).

On notice of the petition, a written statement has been filed by respondent Nos. 1 to 3 on 27.10.2021 stating therein that there is a building of Industrial Training Institute, which is being run by the respondents since 01.08.1963, wherein the students receive technical and industrial training. The copy of the building map, site plan, building completion certificate issued by the PWD (B&R) and electricity meter of the building is attached as Annexure R-1 (Colly). The Institute was opened in the city of Bhiwani by the State Government, accordingly, the land-owners of the area (including the predecessor-in-interest of the petitioner) came forward and voluntarily gave the land to the then State Government free of cost for starting Industrial Training Institute, so much so, the revenue records i.e Jamabandi of the year 1964-65, 1967-68, 1972-73, 1977-78, 1982-83 describes the nature of land comprised in Khasra No. 474/6 (18-17) as Gair Mumkin Technical College and thereupon in subsequent Jamabandies till date, it is reflected as Gair Mumkin land. The possession over the land comprised in Khasra No. 474/1, 474/2, 474/3, 474/4, 474/5, 474/6 & 474/7, is admittedly that of the State Government since the year 1963, when the Industrial Technical Institute started its functioning. There had not been any objection about the user or utilisation of the land by the State Government, from any quarters including the predecessor in interest of the petitioner, since the State was fulfilling the

welfare object of providing technical education to the students of the area. The predecessors in interest of the petitioner never asserted their ownership since long, hence, the petitioners too cannot claim for rights over the property, which is permissively held by the State Government.

As per letter dated 07.10.2016. the Deputy Commissioner, Bhiwani there is an entry in the Roznamcha Waqati bearing report no. 414 dated 12.07.1962 (R-2) vide which the possession of the said land in question was handed over to the Industrial Training Department by the Concerned Patwari. Thus, the department got the possession of the land in dispute through a legal process not otherwise.

As per the entry in the Jamabandi Year 1961-62, the old Khasra No. was 438,439,440,434,578,576,577,596 whose possession was given to Industrial Training Institute on dated 12.07.1962, later on these khasra no. had been changed into new khasra no. 474/1, 52-15 G.mumkin, 474/2,10-03 Gmumkin, 474/3,10-4 G.mumkin, 474/4,10-4G-mumkin 474/5 17-3 G-mumkin 474/6, 18-17 G.mumkin, 474/7 60-13 Gmumkin in Jamabandi year 2007-2008 since then the Industrial Training Department is having the continuous and uninterrupted possession of the same land.

The petitioners have concealed that in respect of Khasra No. 474/7 (60-13) Mahipal, Pradeep sons of Fatu Singh had already filed a civil suit claiming relief of possession of Khasra No.474/7 (60-13), which is part of the suit land and they have also sought consequential relief of mandatory injunction directing the defendants to demolish the building of Industrial Training Institute College constructed on their land and to hand over the vacant possession of the same to the plaintiffs. Suit of Mahipal and others was dismissed, vide judgment and decree dated 17.02.2016 (R-3) and in the same

way Smt. Murti and others had also filed a civil suit claiming relief of

possession of the suit land which also includes the subject land i.e. Khasra No. 474/6 (18-17) and in the alternative they have also prayed that acquisition of land under the Land Acquisition Act and accordingly disburse the compensation as per prevailing market rates. The civil suit of Murti and others in respect of Khasra No. 474/6 (18-17) was also dismissed, vide judgment and decree dated 17.03.2018 (Annexures R-4)

Further writ petitions no. 25378 with C.W.P No. 25989 of 2014 which also include the subject land ie: Khasra No. 474/6 (18-17) is pending adjudication before this Hon'ble High Court for 06.11.2020. That the said writ petition has been filed by the petitioner for issuance of directions to the respondents to give compensation of the land comprised in Khewat No. 1067 min, khasra no. 474/6 (18-17), part of which i.e 5 kanal is allegedly purchased by the petitioner from the vendor Rajesh s/o Smt. Ram Murti d/o Sh. Jagta s/o Sh. Mohar Singh, vide registered sale deed no. 11218 dated 24/01/2013 and the mutation of which bearing Sr. no. 30114 was got sanctioned in his favour by the Legal heirs of said Rajesh on 15.02.2014, in terms of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and in the alternative, the petitioner has asked to revert the land back to the petitioner, if the same is not utilized or not required by the State Government.

Heard learned counsel for the parties at length and have gone through the records of the case.

It is not in dispute that the predecessor-in-interest of the petitioners came forward and had voluntarily given the land to the then State Govt. free of cost for starting Industrial Training Institute. The then State Govt. constructed building of the Institute about 57 years ago and the construction of the building, the Institute started functioning in Bhiwani from 01.08.1963.

Possession of the suit land was handed over to the Industrial Training Institute by the Revenue Authorities. The students of the area have been getting education and in the revenue record the suit land has been shown to be in possession of the Institute. The petitioners or their predecessors-in-interest never exercised their rights in the suit land. The predecessors-in Interest of the petitioners during their life time had never exercised their ownership or possessory rights over the suit land. The possession over the land comprised in Khasra No. 474/1 (52-15), 474/2 (17-3), 474/3 (10-3), (7-13) 474/4 (10-4), 474/5 (10-4), 474/6 (18-17) and 474/7 is admittedly of the State Govt. since the year 1963, when the Industrial Training Institute started it functioning.

It is not the case of the petitioners that any appeal has been filed by the petitioners against the judgment and decree dated 17.02.2016 (R-3) and judgment and decree dated 17.03.2018 (Annexures R-4). The petitioners remained silent for 40 years when the possession was given to the State to run ITI. The limitation period is 12 years to claim possession under Article 65 of the Limitation Act, 1963.

Reference at this stage can be made to judgment of Hon'ble the Supreme Court in a case of ***State of Maharashtra vs. Digambar***, 1995 (4) SCC 683 wherein Hon'ble the Supreme Court had dismissed the petition on the ground of delay and laches. In para Nos. 12 to 14, it has been observed as under:-

“ 12.Again, as seen from the judgment, the portion of which is excerpted by us earlier, the High Court has not chosen to consider the ground of laches or undue delay on the part of the writ petitioners as that which disentitled them to seek relief under [Article 226](#) of the Constitution, because of its view that the ground of laches or undue delay cannot disentitle a citizen to obtain relief from the High Court under [Article 226](#) of the Constitution when he claims compensation from the State for his land alleged to have been taken away by the State or its agencies.

13. *The said view taken by the High Court that the ground of laches or undue delay on the part of a citizen does not disentitle him to obtain relief under [Article 226](#) of the Constitution, when his claim for relief is based on deprivation of his property by the State or its agencies has since made it (High Court) to grant relief to the respondent in this appeal and other similarly situated, sustainability of such view requires our examination in this appeal.*

14. *How a person who alleges against the State of deprivation of his legal right, can get relief of compensation from the State by invoking writ jurisdiction of the High Court under [Article 226](#) of the Constitution even though, he is guilty of laches or undue delay is difficult to comprehend, when it is well settled by decisions of this Court that no person, be he a citizen or otherwise, is entitled to obtain the equitable relief under [Article 226](#) of the Constitution if his conduct is blame-worthy because of laches, undue delay, acquiescence, waiver and the like. Moreover, how a citizen claiming discretionary relief under [Article 226](#) of the Constitution against a State, could be relieved of his obligation to establish his unblameworthy conduct for getting such relief, where the State against which relief is sought is a welfare State, is also difficult to comprehend. Where the relief sought under [Article 226](#) of the Constitution by a person against the welfare State is founded on its alleged illegal or wrongful executive action, the need to explain laches or undue delay on his part to obtain such relief, should, if anything, be more stringent than in other cases, for the reason that the State due to laches or undue delay on the part of the person seeking relief, may not be able to show that the executive action complained of was legal or correct for want of records pertaining to the action or for the officers who were responsible for such action not being available later on. Further, where granting of relief is claimed against the State on alleged unwarranted executive action, is bound to result in loss to the public exchequer of the State or in damage to other public interest, the High Court before granting such relief is required to satisfy itself that the delay or laches on the part of a citizen or any other person in approaching for relief under [Article 226](#) of the Constitution on the alleged violation of his legal right, was wholly justified in the facts and circumstances, instead of ignoring the same or leniently considering it. Thus, in our view, persons seeking relief against the State under [Article 226](#) of the Constitution, be they citizens or otherwise, cannot get discretionary relief obtainable thereunder unless they fully satisfy the High Court that the facts and circumstances of the case clearly justified the laches or undue delay on their part in approaching the Court for grant of such discretionary relief.*

Therefore, where a High Court grants relief to a citizen or any other person under [Article 226](#) of the Constitution against any person including the State without considering his blame-worthy conduct, such as laches or undue delay, acquiescence or waiver, the relief so granted becomes unsustainable even if the relief was granted in respect of alleged deprivation of his legal right by the State”.

Reference at this stage can further be made to judgment of this Court in a case of Dharambir and others vs. State of Haryana and others, passed in CWP No. 4790-2015, decided on 03.09.2015 whereby petitioners being legal heirs of Gugan Singh seeking direction to the respondents to award the compensation in lieu of land acquired. This Court dismissed the petition on the ground of delay and laches and held as under:-

“The present writ petition has been filed after the death of Gugan Singh on 26.02.2015. Admittedly, the land is being utilized for the canal since the year 1953. The petitioners or their predecessors were very well aware of the fact that their land is being utilized for the canal. Since no objection was raised for all these years, the plea raised by the respondents in the written statement that it was by consent of the petitioners is believable. Therefore, the petitioners cannot be permitted to dispute the utilization of the land for the purpose of canal after more than 60 years.

Since the options to irrigate the land was limited soon after independence, therefore, the inhabitants of the village were more than willing to give their land free of cost to the State for providing means of irrigation. The source of irrigation was more valuable than the value of land. It provided source of livelihood to the villagers. Therefore, in view of the fact that the petitioners have not raised any objection for more than 60 years, we find that the petitioners are estopped to dispute the use of land for the irrigation purpose since the year 1953 in the present writ petition filed in the year 2015.

In the present case as well, the petitioners had not filed any

replication to the written statement filed by respondent No. 1 to 3 on 27.01.2021. Further the petitioners remained silent for 40 years when the possession was given to the State to run ITI in the year 1963.

In view of the above factual position, the writ petition is dismissed on the ground of delay and latches itself.

(RITU BAHRI)
JUDGE

26.08.2022
G Arora

(NIDHI GUPTA)
JUDGE

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