

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.

CWP-10068-1988 (O & M)

Reserved on: 31.08.2023

Pronounced on: 05.09.2023

MOHINDER SINGH AND ANOTHER

.....Petitioners

Versus

THE STATE OF HARYANA AND ANOTHER

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. Akshay Bhan, Senior Advocate assisted by  
Mr. Jivesh Malik, Advocate,  
Mr. Harsh Vasu Gupta, Advocate and  
Mr. Abhijeet Rawlry, Advocate  
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with  
Mr. Saurabh Mago, DAG, Haryana.

Mr. Kamal Sharma, Advocate and  
Mr. Raja Sharma, Advocate  
for respondent-HUDA.

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**SURESHWAR THAKUR, J.**

1. Through the instant petition, the petitioners challenge the validity of a notification, as became issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894'). Moreover, the petitioners also make a challenge to the validity of issuance of a notification under Section 6 of the 'Act of 1894'.

2. The above notification(s) became respectively issued on 27.08.1987 (Annexure P-1) and on 22.08.1988 (Annexure P-5) and the consequent thereto award became passed on 20.03.1989.

3. Significantly, interim directions were passed in the instant writ petition by this Court on 04.11.1993, thus staying dis-possession of the petitioners and the said directions were made absolute, through an order made by this Court on 13.12.1993.

4. Through a decision made on 23.11.2007, the writ petition (supra) was disposed of with certain direction(s). The relevant portion of the same is extracted hereinafter.

*“..... Since the petitioners have no objection to the acquisition of the land covered by the public utilities mentioned above, the application for vacation of stay i.e. C.M. No. 13172 of 2007 is allowed and stay in respect of the acquired land covered under khasra No. 6/1 and 10 and marked yellow in sajra plan of Sector 29 is hereby vacated.*

*In view of the vacation of stay in respect of the land covered by public utilities, the remaining land is not at all required for any public purpose because in respect of the part of the land which was acquired for public purpose, stay order has been vacated today.*

*This petition is disposed of with a direction that the part of the petitioners' land marked yellow shall stand acquired while the remaining part of the acquired land shall be released from acquisition altogether. The petitioners may pursue their case for compensation for the acquired portion before the appropriate forum.”*

5. Feeling aggrieved from the order (Supra), the State Government-HUDA preferred LPA No. 129-2012 before this Court. Through an order drawn on 19.01.2017, the learned Division Bench of this Court, thus ordered for restoration of the writ petition (supra) to its original number, thus for a decision on merits being made thereons. The relevant portion of the verdict (supra) is extracted hereinafter.

*“xxxxxx After hearing learned counsel for the parties, we are of the opinion that the learned Single Judge fell in grave error in concluding that the appellants had foregone their contest in the main writ petitions qua the entire acquisition questioned by the land owners. It was only with a limited prayer that they had approached this Court to permit them to continue with the development works and release some portion of the land from the impact of the stay order since these works were of paramount importance and of an urgent nature. The entire reading of the applications does not remotely suggest that they intended to settle the writ petitions in these terms.*

*Consequently, we accept the present appeals and modify the order of the learned Single Judge to say that it would be applicable to the land that stand utilized for public purposes but in so far as challenge to the remaining land is concerned the parties would be free to agitate the same on merits. Therefore, we restore the writ petitions bearing nos. 3340, 3342, 3344 of 1991 and 10628 and 10068 of 1998 to their original numbers and direct their listing as per roster so that they can be decided on merits qua the controversy and the benefits under Section 24(2) of the Act.*

*Since the affidavit of the Administrator was to be filed only in one connected LPA bearing no. 2256 of 2011, the costs imposed vide this Court's order dated 18.10.2016 in all the LPAs shall stand waived and will stand in said LPA only.”*

6. The petitioners now challenge the issuance of notification(s) for acquisition (supra), thus through invoking the mandate of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter for short refer to as the 'Act of 2013'), whereby, there is lapsing of the earlier launched acquisition proceedings under

the 'Act of 1894'.

7. The learned counsel for the petitioners submits, that subsequent to the issuance of notification(s) (supra), the petitioners on 16.09.1987 instituted objections under Section 5A of the 'Act of 1894' (Annexure P-2). In the said objections the petitioners contended, that on the acquired lands, they had made A Class constructions besides also contended, that there is *samadhi* of the grand father of the petitioners, on the acquired lands. Further, they also contended therein, that on the acquired lands, exist an old mandir where the family members of the petitioners pay obeisance. Consequently, it is contended that the order made by the respondents concerned, thus rejecting the said objections whereafter they had issued a declaration under Section 6 of the 'Act of 1894' (Annexure P-5), thus is tainted. Moreover, it is also contended that the respondents have proceeded to adopt the practice of invidious discrimination, inasmuch as, the respondents releasing the acquired lands vis-a-vis other estate holders, whereas, the respondents yet proceeding to subject the petition lands to acquisition, through making an award on 20.03.1989.

8. However, for the reasons to be assigned hereinafter, the above made ground is rudderless and is rejected. The primary reasons for rejecting the above ground is founded, upon, the respondents in their reply-affidavit, as well as in their arguments, firmly contending that the writ land(s), was acquired for furthering the requisite public purpose, but only on account of rendition of interim orders against the petitioners becoming dis-possessioned from the said lands, that the execution of the public work, thus, became forestalled. Since

predominance is to be assigned to the public purpose, than to individual

interests of the estate holders concerned. Therefore, in doing so, this Court refrains to allow the petitioners claim for the acquired lands becoming released from acquisition.

9. Furthermore, the said claim could have been well founded only in terms of Section 48 of the 'Act of 1894' provisions whereof are extracted hereinafter.

***“48. Completion of acquisition not compulsory, but compensation to be awarded when not completed. - (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.***

***(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings there under, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.***

***(3) xxxxx***

10. However, since the stage for releases of the acquired lands becoming caused in terms of the statutory provisions (supra), thus could be done only before the assumption of possession thereof and/or before the pronouncement of award, and, not subsequent thereto(s). Therefore, when the order, if any, thus dismissing the objections rather was required to be assailed promptly, thus on its becoming made, whereas, it remaining omitted to be challenged, thereby the petitioners are estopped on account of apposite waivers and abandonments, to make a challenge to the dismissal orders, if any, as became made on their objections, as, cast under Section 5A of the 'Act of 1894'.

11. The further consequence thereof, is also, that since the discretion to be exercised within the ambit of Section 48 (supra) as occurs in the 'Act of 1894', is to be exercised prior to the assumption of possession or prior to the making of the award of the acquired lands, whereas, the award in the instant case becoming pronounced on 20.03.1989, nor when a prompt petition became filed before this Court, challenging the order, if any, rejecting the objections as raised under Section 5A of the 'Act of 1894'. Consequently, the claim for releasing the writ lands from acquisition, especially when the same becomes acquired for sub-serving the requisite public purpose, is both mis-founded and a mis-espoused relief, and, is liable to be rejected.

12. Now, assumingly there was prompt raising of challenge(s) by the petitioners in the dismissal order made on their objections, yet when apart from this Court ordering for staying the dis-possession of the petitioners from the disputed lands, thus not making any order restraining the respondents from making an award. Resultantly the effect of the non passing of the order (Supra), is that, the dismissal order, if any, as became made on the relevant objection(s), merges into the award as made qua the acquired lands, thereby the challenge to the order, if any, rejecting the objections filed under Section 5A of the 'Act of 1894', thus becomes infructuous.

13. Consequently, the above ground of discrimination but raised on parity being denied to the writ petitioners qua similarly situated lands of estate holders concerned, is thus, a completely rudderless argument and is rejected.

14. The further reason for rejecting the above submission becomes founded upon the factum that the instant petition, rather being

hit by a gross pervasive vice of delays and laches. The reason for making the above conclusion becomes sparked from the factum, that the challenge to the afore, has been made after almost thirty five years elapsing, since the launching of acquisition proceedings under the 'Act of 1894'. Resultantly, the apposite writ petition being hit by the above vice as such, the extant petition deserves becoming rejected.

15. Even the Hon'ble Apex Court in a judgment rendered in case titled ***"M/s Star Wire (India) Ltd. V/s State of Haryana and others"***, reported in (1996) 11 SCC 698, has in the relevant paragraph of its verdict, paragraph whereof becomes extracted hereinafter, thus declared that any belated challenge, as made to the relevant lawful fully terminated acquisition proceedings, thus is hit by the vices of delay and laches, and thereby too, the said belated motion as existing in the instant petition, is but required to be declared as misconstituted.

*"Shri P.P. Rao, learned senior counsel for the petitioner, contends that the petitioner had no knowledge of the acquisition proceedings; as soon as it came to know of the acquisition, it had challenged the validity of the acquisition proceedings and, therefore, it furnishes cause of action to the petitioner. He further contends that the writ petition could not be dismissed on the ground of laches but was required to be considered on merits. We find no force in the contention. Any encumbrance created by the erstwhile owner of the land after publication of the notification under Section 4(1) does not bind the State if the possession of land is already taken over after the award came to be passed. The land stood vested in the State free from all encumbrances under Section 16. In Gurmukh Singh & Ors. vs. The State of Haryana [J] 1995 (8) SC 208], this Court had held that a subsequent purchaser is not entitled to challenge the legality of the acquisition proceedings on the ground of lack of publication of the notification. In Y.N. Garg vs State of Rajasthan [1996 (1) SCC 284] and Sneh Prabha vs. State of U.P. [1996 (7) 325], this Court had held the alienation*

*made by the erstwhile owner of the land after publication of the notification under Section 4(1), do not bind either the State Government or the beneficiary for whose benefit the land was acquired. The purchaser does not acquire any valid title. Even the colour of title claimed by the purchaser was void. The beneficiary is entitled to have absolute possession free from encumbrances. In U.P. Jal Nigam, Lucknow through its Chairman & Anr. vs. M/s Kalra Properties (P) Ltd., Lucknow & Ors. [(1996) 1 SCC 124], this Court had further held that the purchaser of the property, after the notification under Section 4(1) was published, is devoid of right to challenge the validity of the notification or irregularity in taking possession of the land before publication of the declaration under Section 6. As regards laches in approaching the Court, this Court has been consistently taking the view starting from State of Madhya Pradesh & Anr. vs. Bhailal Bhai & Ors. [AIR 1964 SC 1006] wherein a Constitution Bench had held that it is not either desirable or expedient to lay down a rule of universal application but the unreasonable delay denies to the petitioner, the discretionary extraordinary remedy of mandamus, certiorari or any other relief. The same was view reiterated in catena of decisions, viz., Rabindranath Bose & Ors. vs. The Union of India & Ors. [(1970 (1) SCC 84]; State of Mysore & Ors. vs. Narsimha Ram Naik [AIR 1975 SC 2190]; Aflatoon & Anr. vs. Lt. Governor of Delhi [ (1975) 4 SCC 285]; M/s. Tilokchand Motichand & Ors. vs. H.B. Munshi, Commissioner of Sales Tax, Bombay & Anr. [AIR 1970 SC 898]; State of Tamil Nadu & Ors. etc. V. L. Krishnan & Ors. etc. [JT 1995 (8) SC 1]; Improvement Trust, Faridkot & Ors. vs. Jagjit Singh & Ors. [1987 Supp. SCC 608]; State of Punjab & Ors. vs. Hari Om Co-operative House Building Society Ltd., Amritsar [1987 Supp. SCC 687]; Market Committee, Hodal vs. Krishan Murari & Ors. [JT 1995 (8) SC 494] and State of Haryana vs. Dewan Singh [(1996 (7) SCC 394] wherein this Court had held that the High Court was not justified in interfering with the acquisition proceedings. This Court in the latest judgement in Municipal Corporation of Great Bombay vs. The Industrial Development & Investment Co. Pvt. Ltd. & Ors. [JT 1996 (8) SC 16], reviewed the entire case law and held that the person who approaches the Court belatedly will be told that*

*laches close the gates of the Court for him to question the legality of the notification under Section 4(1), declaration under Section 6 and the award of the Collector under Section 11. ”*

**Final order of this Court.**

16. In aftermath, this Court finds no merit in the writ petition, the same being completely frivolous, thus is required to be dismissed with costs. Therefore, the same is dismissed with costs of Rs. 50,000/- to be forthwith deposited by the petitioners with the 'Himachal Pradesh Aapada Raahat Kosh - 2023' for mitigating the natural disaster in the State concerned.
17. The impugned notification(s) and the consequent thereto award are maintained and affirmed.
18. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

**(SURESHWAR THAKUR)**  
**JUDGE**

**05.09.2023**

kavneet singh

**(KULDEEP TIWARI)**  
**JUDGE**

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