

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15928-1995 (O&M)

Reserved on: 08.12.2023

Date of Decision : December 20, 2023

ASHOK KUMAR

...Petitioner

V/S

THE STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Sushil K. Sharma, Advocate for
Mr. M.L. Sharma, Advocate for the petitioner.

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

SURESHWAR THAKUR, J.

1. The prayers made in the instant petition *inter-alia*, are that, the notifications respectively issued under Sections 4 and 6, besides notice issued under Section 9 of the Land Acquisition Act, 1894, (hereinafter referred to as the “Act of 1894”), respectively on 09.11.1992, on 02.12.1992, and, on 26.10.1995, being ordered to be quashed, and, set aside.

2. The contention as raised by the learned counsel for the petitioner, is that, the petitioner had purchased the plot measuring 19 marlas situated in the revenue estate of Sultanpur, Tehsil and District Sonapat, on 29.01.1990. After purchasing the said plot, the petitioner had set up a Saw Mill. The petitioner has installed Aara machine in the year 1990 itself, for which the petitioner was provided electricity connection by the department concerned, thereby he submits that the Saw Mill was in existence prior to the issuance of a notification under Section 4 of the Act of 1894.

3. The other contention which is raised by the learned counsel for the petitioner, is that, the publication of the notification under Section 4 of

the Act was not done in accordance with law, as such the petitioner failed to file objections under Section 5-A of the Act. Later on, the petitioner filed objection under Section 5-A of the Act, but the same was not registered.

4. Now alluding to the ground (supra), as relates to the report regarding non-consideration of apposite objections, as raised under Section 5A of the Act of 1894, thus not being made available, it appears that the said ground is laid on a shaky foundation. The reason becomes erected on the evident fact, as revealed from the written statement filed on behalf of the State, that the subject land in respect whereof, the objection was raised rather being vacant and, the Saw Mill constructed on an area of 7 marlas, was lying closed, at the stage of issuance of a notification under Section 4 of the Act of 1894. If so, the learned counsel for the petitioner cannot make any argument before this Court, that thereby the objections filed under Section 5-A of the Act of 1894 by the petitioner, were not well considered, especially when they hold no legal consequentiality, rather relating to the release(s) of constructions, as became purportedly raised post the issuance of a notification under Section 4 of the Act of 1894. Conspicuously, also when the said raised Saw Mill on the acquired lands, rather at the time of issuance of a notification issued under Section 4 of the Act of 1894, thus was evidently lying in an abandoned state, thereby for a non-functional Saw Mill, existing at the relevant site, but over a minimal expanse of land, the petitioner cannot claim its becoming released from acquisition, though he can claim that compensation in respect thereof, be determined by the learned Collector concerned.

5. Predominantly also when he was beneficiary of the release(s), as became made qua constructions, if any, over subject lands, and, which

became raised thereon, but prior to the issuance of a notification under

Section 4 of the Act of 1894, especially also when such releases, were made in terms of the relevant policy, whereas, the constructions raised on vacant lands, but post the issuance of a notification under Section 4 of the Act of 1894, rather obviously were not amenable for being released. Moreover, when vis-a-vis other purported similarly situated estate-holders, thus releases of their constructions were made, but on the ground, that such constructions becoming raised prior to the issuance of a notification under Section 4 of the Act of 1894. Therefore too, the petitioner cannot claim parity with those land-losers concerned, whose constructions were released from acquisition.

6. Significantly reiteratedly, in the instant cases, the denial for release or exemption from acquisition of any purported Saw Mill, existing on the acquired lands, became founded on the ground, that the said Saw Mill was lying in an abandoned condition. If so, the abandoned Saw Mill of the petitioner rather existing on the relevant site, at the time of issuance of a notification under Section 4 of the Act of 1894, thus cannot be treated at par with inhabited constructions existing on the relevant acquired sites, thus prior to the issuance of a notification under Section 4 of the Act of 1894. In consequence, the above ground falls apart.

7. In consequence, in view of the findings recorded in paras (supra), of this verdict, this Court does not deem it fit, and, appropriate to conclude that there was no valid assumption of possession over the acquired lands by the Acquiring Authority.

8. Furthermore, it has also been clarified in the reply filed by the learned State counsel, that the acquired lands have been acquired for development and utilization of land for residential, and, commercial area along with Sector road at Sonapat. As such, when the acquired lands are tailored to suit the public purpose, besides are essential for furthering the

requisite public purpose. Resultantly, no claim for theirs being released from acquisition can be well laid before this Court.

9. The principal ground which has been raised in the preliminary objections filed to the instant petition rather for rejecting the writ claims, is grooved in the factum, that the instant writ petition is barred by the stench of delay and laches.

10. The above ground appears to be tangible as despite Annexure P-14 becoming issued on 09.11.1992 yet the instant writ petition becoming instituted after about 3 years elapsing since its making. Therefore, when in a judgment titled *M/S. Star Wire (India) Ltd vs The State Of Haryana & Ors on 25 September, 1996, 1996 (11) SCC 698* rendered by Hon'ble Apex Court, it has been expostulated that belatedly instituted claims are per-se imbued with a vice of delay and laches, as thereby the petitioner abandon and waive his rights over the disputed lands. Since thereby also the concomitant estopping principle, does stem. Consequently, on the above premise too, the writ petition deserves rejection.

11. In consequence, the writ petition is dismissed.

12. All pending application(s), if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 20, 2023
Ithlesh

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