

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-3903 of 2005 (O&M)  
Date of Decision:16.12.2023

Gurdev Singh and another  
Versus  
Chandigarh Administration and others  
... Petitioners  
... Respondents

2) CWP-5051 of 2005 (O&M)

Prem Singh and others  
Versus  
Chandigarh Administration and others  
... Petitioners  
... Respondents

CORAM: HON’BLE MR. JUSTICE SURESHWAR THAKUR  
HON’BLE MS. JUSTICE SUDEEPTI SHARMA

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Present: Mr. Rajiv Kataria, Advocate,  
for the petitioners.  
  
Mr. Ashish Rawal, Advocate,  
for respondents No.1 and 2.  
  
Mr. Gaurav Mohunta, Advocate,  
for respondent No.3.

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SUDEEPTI SHARMA, J.

1. Both these civil writ petitions are taken up together for final disposal with the consent of learned counsel of the parties as common questions of law and facts are involved in both these writ petitions.

2. The challenge in both these petitions is to the notifications dated 31.01.1992 and 29.01.1993 (Annexure P-2 and P-3 respectively) under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act') and Award dated 05.03.2003 (Annexure P-4) and further prayed for quashing of the same.

3. Learned counsel for the petitioners contends that the respondents have not announced the Award within the stipulated period of two years as per the requirement of Section 11-A of the Act and the impugned notifications have already been elapsed because the Award has not been rendered within the statutory period of two years.

4. As per the reply filed by the respondents, the stand taken by the respondents in the preliminary objections is reproduced as under:-

*“Preliminary Objections:*

- 1. That the sole contention raised by the petitioners as recorded in the ex-parte interim order dated 11.03.2005, on the basis of which notice of motion has been issued to the respondents and the interim stay has been granted to the petitioners, is to the effect that the award under Section 11 of the Land Acquisition Act, 1894 in the present case was made after more than two years from the date of issuance of the notification under Section 6 of the aforesaid Act and therefore, the proceedings are hit by Section 11-A of the Act which is factually incorrect and misleading. In fact, such misleading statement has been made in order to obtain ex-parte interim order from this Hon'ble Court and thereby getting stalled the public purpose for which the land was acquired. Admittedly, the notification under Section 4 of the Act pertaining to the land acquired for the development of residential-cum-commercial complex in Pocket No.8 in Manimajra was issued on 31.01.1992 and the*

*notification under Section 6 of the Act was issued on 29.01.1993. As many as 31 writ petitions were filed challenging the said notifications issued under Section 4 and 6 of the Act on the ground that the petitioners had constructed their residential houses over the said land and some of them were allegedly built even after getting the plans sanctioned from the then Notified Area Committee etc.. In all these writ petitions including the main writ petition i.e CWP No. 2126 of 1993, further land acquisition proceedings were stayed by an interim order dated 24.02.1993. Ultimately all these writ petitions were dismissed with costs by passing a detailed judgement by a Division Bench of this Hon'ble Court in CWP No. 2126 of 1993 on 22.09.1995. Thereafter, another writ petition i.e CWP No. 4433 of 1996 was filed under the title Ghanpal Singh and others Vs. Union Territory and others and further proceedings were stayed till further orders. The said Civil Writ Petition was allowed by a short order dated 11.08.1997 without noticing the earlier stay of proceedings in the aforesaid bunch of writ petitions and the notification under Section 4 and 6 were quashed. The Chandigarh Admn. then filed a Review Application No. 244 of 1998 which was allowed by a detailed order dated 31.01.2003 and thereby the order dated 11.08.1997 was recalled. In between, number of writ petitions were also filed i.e CWP No.14804 of 1993, CWP No. 14892 of 1998 and CWP No. 14903 of 1998. In all these three writ petitions also initially there was stay of further proceedings but ultimately these were dismissed by passing a detailed order dated 30.09.1998 by a Division Bench of this Hon'ble Court. Similarly, another bunch of eight writ petitions i.e CWP No.10287 of 1997, CWP No.10668 of 1997, CWP No. 10676 of 1997, CP No. 10589 of 1997, CWP No. 10960 of 1997, CWP No. 10661 of 1997, CW No. 12043 of 1997, and CWP No.*

*16715 of 1997 also although earlier there was stay of further proceedings but ultimately this bunch of eight writ petitions was also dismissed by a Division Bench of this Hon'ble Court by a detailed order dated 04.08.1998. In this way, a perusal of the aforesaid litigation relating to 43 different writ petitions, it is clear that further proceedings in the aforesaid land acquisition matter remained under stay from 24.02.1997 to 31.01.2003. Thereafter, notification under Section 9 of the Act was issued on 06.02.2003 for filing the objections upto 28.02.2003. Public Notice to this effect was published in leading newspapers on 08.02.2003 and 09.02.2003. Individual intimations were also sent to all the land owners having interest in the land to appear and file their objections which too were heard upto 28.02.2003. Local publication to this effect was also made. After due consideration of the objections, the Land Acquisition Collector pronounced the Award on 05.03.2003, a copy of which has been attached by the petitioner as Annexure P-4 with the writ petition. Although in the award, the aforesaid factual position has been mentioned yet the petitioners by making wrong statement of facts obtained ex-parte interim order of stay of demolition of the building vide order dated 11.03.2005 which is liable to be vacated by imposing exemplary costs upon the petitioners in view of the fact that the Award dated 05.03.2003 is not hit by the provisions of Section 11-A of the Act as the Award, after excluding the period during which the action / proceedings taken in pursuance of the aforesaid notifications remained under stay, has been pronounced within the stipulated period of two years from the date of publication of the declaration under Section 6 of the Act. Resultantly, the present writ petition deserves outright dismissal.*

*2. That the present writ petition is not maintainable as earlier*

*also, the petitioners had filed a Civil Writ Petition No. 14686 of 1998 challenging the notifications under Section 4 & 6 of the Act on the ground that the same has lapsed after the expiry of two years by virtue of the provisions of Section 11-A of the Act. Although the said writ petition is still pending before this Hon'ble Court for regular hearing yet on the same plea, the petitioner has again filed the present writ petition by mis-using the process of law.”*

5. We have heard learned respective counsel for both the parties.

6. So far as the petitioner No.1 in CWP No.5051 of 2005 is concerned, the writ petition is barred by principle of *res judicata* since the aforementioned impugned notifications were challenged in CWP-14685 of 1998, which has already been dismissed vide judgment dated 22.01.2008.

7. As per the averments made in the writ petition and the reply filed by the respondents, we have examined CWP-14685 of 1998 titled as Prem Singh and others versus U.T. Chandigarh and others, decided on 22.01.2008 alongwith CWP-11352 of 2004 titled as Kailash Wati and others versus Union of India and others, decided on 14.12.2006. The issue involved in both the writ petitions is the same as has already been decided by the different co-ordinate Benches of this Court in cases (supra).

8. In ***Kailash Wati's*** case (supra), co-ordinate Bench of this Court held as under:-

*“The petitioners case is that although declaration under Section 6 of the Act was issued on 29.1.1993 but the award was announced on 5.3.2003 and therefore as the award has not been announced within a period of two years, hence the same is liable to be quashed.*

*It has been averred that the petitioners had not obtained any*

*stay order from any Court after the declaration under Section 6 of the Act and, therefore, as far as the petitioners are concerned the award should be deemed to have lapsed.*

*Written statement has been filed by the Land Acquisition Officer, U.T. Chandigarh, on behalf of respondent Nos. 2 and 3 wherein it has been averred that the aforementioned notifications issued under Sections 4 and 6 of the Act were challenged in as many as 31 writ petitions on the ground that the petitioners had constructed their residential houses over the acquired land and some of the houses were even built after getting the plan sanctioned by the Notified Area Committee. In C.W.P. No. 2126 of 1993 this Court had stayed further proceedings by an interim order dated 24.2.1993. Ultimately, these writ petitions were dismissed with costs by a Division Bench of this Court in C.W.P. No. 2126 of 1993 decided on 22.9.1995. Thereafter, another writ petition i.e. C.W.P. No. 4433 of 1996 was filed under the title Ghanpal Singh and others v. Union Territory and others in which further proceedings were stayed till further orders. The said writ petition was allowed vide order dated 11.8.1997 and notifications under Sections 4 and 6 were quashed. The Chandigarh Administration then filed a Review Application No. 244 of 1998 which was allowed by a detailed order dated 31.1.2003 and thereby the order dated 11.8.1997 was recalled. In between, numerous writ petitions were also filed i.e. C.W.P. No. 14804 of 1993, C.W.P. No. 14892 of 1998 and C.W.P. No. 14903 of 1998 and in all these writ petitions initially stay of further proceedings was ordered but ultimately these were dismissed by passing a detailed order dated 30.9.1998. In another bunch of eight writ petitions, further proceedings had been ordered to be stayed but these were also dismissed by a Division Bench of this Court vide order dated 4.8.1998. Thus, the notifications had been challenged in 43 different writ petitions and further proceedings in the land acquisition matter remained under stay from 24.2.1993 to 31.1.2003.*

*Counsel for the State has given a detailed chart showing the stay granted by this Court in various writ petitions. The detailed particulars are as follows:-*

| Sr.No. Dates                   | Particulars                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. 31.01.1992                  | Notification u/S 4 of Land Acquisition Act was issued.                                                                                                                                                                                                                                                                                                               |
| 2. 29.01.1993                  | Notification under Section 6 of the Act was issued.                                                                                                                                                                                                                                                                                                                  |
| 3. 12.02.1993                  | Notification under Section 6 of the Act was published.                                                                                                                                                                                                                                                                                                               |
| 4. From 13.02.93 to 23.02.1993 | No stay i.e. For 11 days (A)                                                                                                                                                                                                                                                                                                                                         |
| 5. 24.02.1993                  | Stay in CWP No. 2126 of 1993 was granted.                                                                                                                                                                                                                                                                                                                            |
| 6. 22.09.1995                  | CWP No. 2126 of 1993 was dismissed by Division Bench by passing a detailed order.                                                                                                                                                                                                                                                                                    |
| 7.From 23.09.95 to 02.07.1997  | No stay i.e. in the year 1995 = 110 days<br>in the year 1996 = 365 days<br>in the year 1997 = 183 days<br>-----<br>= 658 days (B)<br>-----                                                                                                                                                                                                                           |
| 8. 03.07.1997                  | Stay in CWP No.4433 of 1996 was granted.                                                                                                                                                                                                                                                                                                                             |
| 9. 11.08.1997                  | CWP No. 4433 of 1996 was allowed by short order without considering the earlier order passed in CWP No.2126 of 1993 (supra). Therefore, Review Application No. 244 of 1998 was filed wherein delay was condoned and the Review Application was heard on merits.                                                                                                      |
| 10. 31.01.2003                 | Review Application No.244 of 1998 was allowed and thereby CWP No. 4433 of 1996 alongwith a bunch of petitions were dismissed.<br><br>Again C.M.No.7175 of 2003 was filed in CWP No. 4433 of 1996 taking the new plea of the proceedings being lapsed because of the expiry of two years period after the publication of the notification under Section 6 of the Act. |
| 11. 01.04.2003                 | C.M. No. .7175 of 2003 was dismissed as withdrawn.                                                                                                                                                                                                                                                                                                                   |
| 12. 06.02.2003                 | Notice under Section 9 of the Act was issued and objections invited upto 28.02.2003.                                                                                                                                                                                                                                                                                 |
| 13. 05.03.2003                 | Award was made and pronounced.                                                                                                                                                                                                                                                                                                                                       |
| 14.From 01.02.03 to 04.03.2003 | <b>No stay i.e. For 32 days (C)</b>                                                                                                                                                                                                                                                                                                                                  |
| 15. Total of (A+B+C) =         | 11+658+32 = 701 days.                                                                                                                                                                                                                                                                                                                                                |

*A perusal of the aforementioned facts clearly shows that further proceedings had been stayed between the period from 24.2.1993 to 31.1.2003 except for a period of 701 days. Thus, if the period during which stay was operating is excluded then the award would be deemed to have been passed within a period of two years and would not be hit by the provisions of Section 11-A of the Act. In Sangappa Gurulingappa Sajjan v. State of Karnataka and others (1994) 4 Supreme Court Cases 145 the Hon'ble Apex Court has held that the period during which the stay order was operative has to be excluded. In Devinder Kumar and others v. Union Territory, Chandigarh through Advisor to the Chandigarh Administration and others reported as (1999-1) PLR 231 a Division Bench of this Court has held as under:-*

*“The moment the Court grants stay, it becomes impracticable and if not impossible to execute the scheme for the land stands notified for acquisition and everything comes to a stand still. It was for that precise reason that it was held by the Apex Court and this Court that period for which the stay remained in vogue should be excluded from computing the period of limitation and it is wholly immaterial whether or not a particular individual had obtained stay qua acquisition of his land or not.”*

*It is, thus, held that the award passed in the present case is not violative of the provisions of Section 11-A of the Act.”*

9. The dispute in the present writ petition has attained finality upto the Hon'ble Apex Court in **Raj Kumar Gandhi versus State (UT of Chandigarh)** (2018) 7 SCC 763. The relevant portion of the judgment passed by the Hon'ble Apex Court is reproduced as under:-

“2. A notification under section 4 of the Land Acquisition Act, 1894

*(for short, “the Act”) was issued on 31.1.1992. Public purpose mentioned was for the development of residential cum commercial complex in scheme No.3. Declaration under section 6 of the Act was issued on 29.1.1993. The petitioners filed a writ petition on 28.7.2004 questioning the acquisition as well as the award dated 5.3.2003. According to the petitioners it was passed after the lapse of three years of the notification issued under section 6 of the Act after excluding the period of interim stay granted by the court. The acquisition had lapsed. The second ground raised to assail the award was that it was not approved by the appropriate Government but by the Advisor to the Administrator of Union Territory.*

3. *In the reply filed by the Chandigarh Administration, it was contended that as many as 31 writ petitions were filed challenging the said notifications issued under sections 4 and 6 respectively. In the writ petitions including C.W.P No.2126 of 1993, further land acquisition proceedings were stayed by an interim order dated 24.2.1993. Ultimately these writ petitions were dismissed by the Division Bench on 22.9.1995. Thereafter, yet another writ petition C.W.P. No.4433 of 1996 was filed in which further proceedings were stayed till further orders. It was allowed by a short order dated 11.8.1997 without noticing the earlier stay of proceedings and the notification under section 4 and declaration under section 6 were quashed. Chandigarh Administration then filed review application which was allowed by a detailed order dated 31.1.2003 and order dated 11.8.1997, allowing writ petition, was recalled. A number of other writ petitions were also filed being C.W.P. No.14804 of 1993, C.W.P. No.14892 of 1998, and C.W.P. No.14903 of 1998. There was a stay of further proceedings but ultimately these were dismissed on 30.9.1998. Another batch of writ petitions being C.W.P. No.10287 of 1997, C.W.P. No.10668 of 1997, C.W.P. No.10676 of 1997, C.W.P. No.10589 of 1997, C.W.P. No.10960 of 1997, C.W.P. No.10661 of 1997, C.W.P. No.12043 of 1997 and C.W.P. No.16715 of 1997 were*

*also filed. There was a stay of further proceedings but ultimately these writ petitions were also dismissed by the Division Bench on 4.8.1998. Thus, there were 43 different writ petitions. Further proceedings remained under stay from 24.2.1993 to 31.1.2003. Thereafter, public notice under section 9 was issued on 6.2.2003 for filing the objections up to 28.2.2003. Public notice to this effect was published in leading newspapers on 8.2.2003 and 9.2.2003. Individual intimations were also sent to all the landowners to file their objections. Thereafter, award was pronounced on 5.3.2003 and again ex parte interim stay had been obtained on 1.3.2005 by mentioning the wrong facts. After excluding the period of stay the award had been pronounced within the period of two years from the date of declaration published under section 6 of the Act. The construction raised was unauthorised and against the provisions of the Periphery Control Act. Therefore, the exemption was not granted. Notifications under section 4 were issued after sanctioning by the Administrator. Thus, there was no illegality in the acquisition.*

*4. The High Court by the impugned judgment and order has opined that considering the various periods of stay mentioned in the order, the award has been passed within a period of 701 days from the date of the declaration issued under section 6 and the decision in Kailash Wati & Ors. v. Union of India, C.W.P. No.11352 of 2004 had been followed in a large number of cases. They were related to the same notification of the very same Pocket or in respect of the other Pockets of the same scheme No.3. Notifications under section 4 with respect to scheme No.3 were issued on the same day so also declaration under section 6 of the Act as there was one common purpose and scheme No.3 was formed for the development of residentialcumcommercial complex, college building, and sports stadium. The decision in Devinder Kumar v. UT Chandigarh – C.W.P. No.14804 of 1998 was rendered on 30.9.1998 and Kailash Wati (supra) was decided on 14.12.2006. File of the award was sent for*

*approval to the Government and was approved by the Advisor.”*

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*“9. The first question for consideration is whether the award was passed within the period stipulated under section 11A from the date of publication of declaration under section 6 excluding the period of stay. It is apparent from the notification issued under section 4 and declaration under section 6 that notification under section 4 had been issued for the development of residentialcumcommercial complex and for construction of college building and sports stadium etc. by the Notified Area Committee, Manimajra, Union Territory Chandigarh and declarations under section 6 had also been issued for the aforesaid purpose i.e. Scheme No.3.....”*

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*“13. Thus, it is apparent that when the stay has been granted in one matter and when the scheme was one, authorities were justified in the facts and circumstances of the instant case to stay their hands. Moreover, a large number of writ petitions have been dismissed by the High Court and orders have attained finality and this Court has also dismissed the appeals/S.L.P.s. Thus, we are not inclined to take a different view in the instant case.”*

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*“17. In the instant case, various notifications and declarations under sections 4 and 6 were issued on the same date with respect to the same scheme. Thus, they were part and parcel of the same scheme. Thus, the submission raised by learned counsel for the appellant stands rejected.”*

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*“20. Resultantly, the appeals being devoid of merits deserve dismissal and the same are hereby dismissed. Parties to bear their own costs, as incurred.”*

10. In view of the above mentioned discussion, since the issue involved in

the present writ petitions is no more *res integra* and has attained finality till the Apex Court, therefore both the writ petitions are dismissed.

11. All the pending applications, if any, stand disposed of accordingly.

(SURESHWAR THAKUR)  
JUDGE

(SUDEEPTI SHARMA)  
JUDGE

December 16, 2023  
dinesh

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