

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

CWP-15235-2022
Reserved on: 11.12.2023
Date of decision: 20.12.2023

ROHTANSH AND OTHERS

...Petitioners

Versus

THE STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Rajesh Lamba, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate,
Mr. Shivam Garg, Advocate and
Mr. Jugam Arora, Advocate for HSVP.

SURESHWAR THAKUR, J. (ORAL)

1. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act of 1894') became issued on 24.08.2000. The same became succeeded by a declaration made on 22.08.2001, under Section 6 of the Act of 1894. An award in terms of Section 11 of the Act of 1894 became rendered, on 21.07.2003.

2. The writ relief is confined to the respondents being directed to in terms of Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act,

2013, (hereinafter referred to as "the Act of 2013") as became inserted

thereins through Haryana Act No.21 of 2018, thus denotify the landloser's estate from acquisition.

3. The prime reason for declining the above relief to the petitioners becomes sparked from the evident factum, that the present petitioners have not only received the compensation amount, but also from factum qua the landloser's estate being an integral component of the developmental activities being made thereon. Resultantly, thereby the writ reliefs cannot be claimed, rather the petitioners are completely estopped, from the above evident material existing on record, thus from staking any claim vis-a-vis the estates of the present petitioners, rather becoming exempted or becoming released from acquisition.

4. The above raised argument also becomes meritless, as a perusal of the reply on affidavit furnished to the writ petition declares, that the retention of the disputed lands, is essential as well as viable, as thereby the relevant public purpose would be furthered, and/or, may be completely facilitated. Since predominance is to be assigned to public purpose, than to individualistic selfish interests of a landloser concerned.

5. The claim as made in the instant petition for release of acquired lands of the landowners concerned, from acquisition, thus under Section 24(2) of the Act of 2013, was earlier raised and, the said claim is re-strived to be re-raised through institution of CWP-3866-2015, before this Court. However, the said writ petition became disposed of through an order made thereon, on 23.04.2015, but with a direction to the authorities concerned, to consider and decide apposite representation within a period of 4 months. The Authorities concerned, vide order of 29.07.2016, dismissed the said representation of the petitioners/their predecessors-in-interest. Subsequently,

the petitioners and their predecessors-in-interest again approached this Court

through their filing CWP-2344-2018, thus again invoking Section 24(2) of the Act of 2013, besides sought the setting aside of the order of 29.07.2016. Through an order made thereons, by this Court, on 12.10.2020, the said claim was dismissed. Consequently, the dismissal order made on writ petition (supra), thus again estops the petitioners to, on similar grounds, as carried therein, to raise any valid claim, that the acquired lands be released from acquisition, thus through the invocation of the apposite lapsing provisions, as comprised in Section 24(2) of the Act of 2013.

6. Conspicuously also upon vesting of ownership over the acquired lands, in the respondent concerned, thus happening, on issuance(s) of notification(s) (supra), thereby when the State becomes the absolute owner of the acquired lands. Resultantly on investment of complete or absolute ownership over the acquired lands, in the respondent-State, thus makes it well empowered to within the ambit of the verdict rendered by Hon'ble Apex Court in the case of ***“State of Kerala Vs. M.Bhaskaran Pillai”***, AIR 1997 SC 2703, to even make sales of the acquired lands through public auction. Thus, in the event of it being not utilized, the exercisings of the above power by an absolute owner, rather is tenable, as thereby the auction monies as become fetched by the State of Haryana, thus would also result in their sub-serving some other public purpose(s). Therefore, except in a very rare or exceptional circumstances, inasmuch as, upon occurrence of *vis major* or upon exorbitant sums of compensation monies being determined, thus making their liquidations, to cause an onerous burden on the State exchequer, thus, thereby the statutory parameters of un-essentiality or unviability of retention of the acquired lands, may then become adopted by the State of Haryana. However, the

above exceptions are not available on the records of this case.

7. Even otherwise, the relevant acquisition was made in the year 2000, and, though the above provisions became inserted in the Act of 2013, through Haryana Act No.21, made in the year 2018, and, though was made retrospectively applicable from the year 2014, but the benefit of the statutory provision (supra), cannot be availed at this belated stage. Importantly so, when it has been declared in a verdict made by this Court in CWP-15175-2023, titled 'The Press Employees and Friends Co-operative Group Housing Society Ltd. V. State of Haryana and others' that the import of the statutory parameters of unessentiality and unviability of retention of the acquired lands, as enshrined therein, but is extremely limited, and, confined to extreme emergent circumstances (supra). Moreover, when it is also been spelt therein, that in case the acquired estate is an integral component of the developmental plan, and, is also an insegregable part of the public purpose, for which the acquired lands are subjected to acquisition, thereby the above statutory parameters of unessentiality, and, unviability of retention of the petition lands, thus are unavailable to become ably canvassed by the writ petitioners.

8. Now alluding to the ground (supra), as relates to the report regarding objections, 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 lands in respect whereof, the objections were raised rather being vacant, whereas, only those parcels of land becoming released but after the acceptance of apposite objections as filed by the petitioners, as thereons existed constructions, which thus became raised thereons, rather prior to the

learned counsel for the petitioners cannot make any argument before this Court, that thereby the objections filed under Section 5-A of the Act of 1894 by the petitioners, being not well considered, especially when they hold no legal consequentiality, especially when they relate to the makings of release(s) of constructions as became purportedly raised, but post the issuance of a notification under Section 4 of the Act of 1894, nor can he argue, that the petitioners became condemned unheard.

9. 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 as residential, commercial and institutional, in Sector 57. 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.

10. The reply also details that the possession of the disputed lands became assumed through Rapat Roznamcha No.583 of 21.07.2003. Moreover, when the sum of Rs.52,15,17,447.60/- out of Rs.73,06,74,448.60/- of the compensation amount as became determined in respect of the acquired lands has been received by the present petitioners, and, the remaining sum of Rs.20,91,57,001/- is available for being disbursed to the land-losers concerned. Therefore too, the claim for release(s) from acquisition of the acquired lands does thereby founders.

11. 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.

12. The above ground appears to be tangible as despite Annexure P-2 becoming issued on 24.08.2000 yet the initial writ petition becoming instituted after about 15 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 the writ petition deserve rejection.

13. 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.

14. In consequence, this Court finds no merit in the instant petition, as such, the writ petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

20.12.2023

Ithlesh

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No

(SUDEEPTI SHARMA)
JUDGE