

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**CWP No. 5066 of 2017****Reserved on: 20.07.2023****Date of decision : 01.08.2023****KARAM SINGH AND OTHERS****-PETITIONERS****VERSUS****UNION TERRITORY CHANDIGARH AND OTHERS****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI****Present :** Mr. Ravi Kant Sharma, Advocate
for the petitioners.Mr. Jaivir Chandail, Addl. Standing Counsel
for U.T., Chandigarh- respondents No.1 and 2.Mr. Sanjiv Ghai, Advocate with
Mr. Parminder Singh Kaul, Advocate
for the respondent No.3.*********SURESHWAR THAKUR, J.**

1. In the instant writ petition, the petitioners claim relief for the quashing of the impugned notifications, which became respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'), notifications whereof are respectively embodied in Annexures P-1 and P-2.

2. The petitioners claim, that they have raised small houses on the acquired lands, and, in case the notifications (supra) are not quashed, they would be rendered homeless. Moreover, they contend, that the respondents have adopted a discriminatory approach, in yet continuing to subject their properties to acquisition, despite and especially when in respect of other

properties located in the similar zone or area, they have chosen to release such properties from acquisition.

3. The notifications (supra) were respectively issued in the years 1990 and 1991, and, the public purpose for which they became issued, thus appertained to the development of residential-cum-commercial complex, Scheme No.3 by the Notified Area Committee, Manimajra, Union Territory, Chandigarh. In pursuance to the making of the said notifications, an award bearing No.475 was rendered by the learned Collector concerned on 26.02.1993. On 06.04.1994, the lands were transferred to the Notified Area Committee. Moreover, the rapat possession of the acquired properties/lands was entered on 06.04.1994. It is also evident on a reading of the reply, as becomes furnished to the writ petition by the respondents, that the compensation, as became determined through award (supra), has been thus tendered, and, is yet available for being disbursed to the landowners concerned. Therefore, thereby accomplishment is secured qua the twin statutory ingredients, as expounded in the judgment of the Hon'ble Apex Court rendered in case titled ***"Indore Development Authority v/s Manoharlal and Ors."***, ***reported in (2020)8 SCC 129***", and, as relating to:- (a) the necessity of tendering of compensation for its becoming claimed for being released to the landowners concerned; (b) the assumption of possession being evidently assumed by the acquiring authority, thus through drawing of a Rapat Roznamcha.

4. Nonetheless, the learned counsel for the petitioners has made a vibrant submission before this Court, that since the assessment of compensation, as made by the learned Collector concerned, did not include

determination of compensation in respect of their houses or structures raised on the acquired lands, therefore also the award (supra) is infirmly drawn.

5. However, the above ground also may not be well rested, as even if assumingly in contemporaneity to the issuance of the notifications (supra), thus structures, if any, were existing on the acquired lands, and, also assumingly even if no compensation in respect thereof, became determined by the learned Collector concerned. Nonetheless, in prompt sequel to the making of the award (supra) by the learned Collector concerned, the remedy to seek assessment of compensation qua thereof, was through a petition under Section 18-A of the Act of 1894, being preferred before the learned Collector concerned, thus for the same being transmitted to the learned Reference Court concerned, rather for enabling the latter to make quantification of compensation in respect of the structures, if any, as were purportedly existing on the acquired lands, and, which were raised prior to the making of the notifications (supra). However, since the above remedy has not been resorted. Therefore, it does not appeal to the judicial conscience of this Court, that the above argument can now be raised before this Court.

6. The effect of non raising of the above motion, at the earliest, at the instance of the petitioners/landowners concerned, thus for the above purpose, also is an acquiescence on the part of the petitioners, that as such the acquired lands were free from any encumbrances of any structures or houses thus existing thereon, and, but thus prior to the issuance of the notifications (supra), and/or, in contemporaneity thereof. The resultant effect thereof, is that, the above plea became then abandoned or waived, and thereby, the said claim is estopped to be belatedly raised before this Court.

7. Be that as it may, the reply, as becomes furnished to the writ petition on behalf of the respondents, categorically declares, thus as revealed by Annexures R-2/2 and R-2/3, that only temporary sheds were raised on the disputed acquired lands, and that too, post the issuance of the notifications (supra). In consequence, such temporary structures or kacha constructions are not of a category, as stated in the petition, inasmuch as, theirs rather being livable houses, or, livable homesteads, nor they can be said to be existing on the petition lands, either prior thereto, or, in contemporaneity to the issuance of the notifications (supra).

8. Cumulatively, since a period of more than 24 years has elapsed since the passing of the award by the learned Collector concerned, therefore obviously finality and conclusivity is to be assigned, thus to the completely terminated acquisition proceedings, as became launched by the authorities concerned, under the Act of 1894.

9. Therefore, since the challenge to the notifications (supra) has occurred after more than 24 years, thus elapsing since their respective issuances, as such, the said challenge is stained with the gross pervasive vice of delays and laches. Resultantly, the instant writ petition, but on the said ground of delay and laches, is liable to be dismissed.

10. Even the Hon'ble Apex Court in a judgment rendered in case titled **"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 fully terminated acquisition proceedings, thus is hit by the vices of delay and laches, and thereby too, the said belated

motion is but required to be declared as misconstituted.

“3. 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 the 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 v. State of Haryana, 1996 SCC (Cri.) 505: JT (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 Yadu Nandan Garg v. State of Rajasthan, (1996) 1 SCC 334, and Sneha Prabha v. State of U.P., (1996) 7 SCC 426, this Court had held that the alienations 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 v. Kalra Properties (P) Ltd., (1996) 3 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 M.P. v. Bhailal Bhai, AIR 1964 SC 1006 : (1964) 15 STC 450, 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 view was reiterated in a catena of decisions, viz., Rabindranath Bose v. Union of India, (1970) 1 SCC 84 State of Mysore v. V.K. Kangan, (1976) 2 SCC 895 AIR 1975 SC 2190

Aflatoon v. Lt. Governor of Delhi, (1975) 4 SCC 285

Tilokchand Motichand v. H.B. Munshi, (1969) 1 SCC 110 AIR 1970 SC 898

State of T.N. v. L. Krishnan, (1996) 1 SCC 250 JT (1995) 8 SC 1

Improvement Trust v. Jagjit Singh, 1987 Supp SCC 608

State of Punjab v. Hari Om Coop. House Building Society Ltd., 1987 Supp SCC 687

Market Committee v. Krishan Murari, (1996) 1 SCC 311 : JT (1995) 8 SC 494, and

State of Haryana v. 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 judgment in Municipal Corpn. of Greater Bombay v. Industrial Development & Investment Co. (P) Ltd., (1996) 11 SCC 501 : 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.”

11. In summa, borrowing the above principle of law, which but supports the above made inference by this Court, resultantly this Court does not find any merit in the instant writ petition, and, is constrained to dismiss the same.

12. In sequel, the writ petition is dismissed. The notifications (supra), and, the award(s) (supra) made in pursuance thereof, are affirmed and maintained.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

01.08.2023
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Whether speaking/reasoned ? Yes/No
Whether reportable ? Yes/No