

104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22958-2022

Date of Decision: 14.02.2023

Ajaib Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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CWP-24207-2022

Rakesh Marya

...Petitioner

vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. A.S. Khosa, Advocate, for the petitioners.

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

G.S.SANDHAWALIA, J. (ORAL)

The challenge in the present petitions is to the notifications dated 06.07.2004 and 17.11.2004, issued under Sections 4 and 6 of the Land Acquisition Act, 1894. Reliance is placed upon the judgment of the Apex Court in **Bimla Devi** vs. **State of Haryana** 2014 (6) SCC 583.

On 31.01.2023, the following order was passed:-

*“It has been brought to our notice that firstly the judgment on which reliance has been placed i.e. **Bimla Devi vs. State of Haryana, (2014) 6 SCC 583** has been impliedly over ruled in **Indore Development Authority vs. Manohar Lal and others, (2020) 18 SCC 129** in para no. 362. Secondly, it has been further brought to our notice that in para No.5 of the writ petition, it has been mentioned that compensation has not been received. There is a categorical averment in reply that not only the compensation but a petition under Section 18 of the Land Acquisition Act, 1894 had been filed and enhanced amount has*

been received and even the petitioners are receiving annuity also.

Accordingly, counsel for the petitioners is put to notice why exemplary costs of Rs.1,00,000/- in each case be not imposed upon the petitioners.

Adjourned to 14.02.2023.

Photocopy of the order be placed on the file of connected case.”

The counsel could not deny the factual aspect recorded above.

The settled principles laid down in the judgment of the Supreme Court in **Prestige Lights Ltd. vs. State Bank of India** 2007 (4) RCR (Civil) 46, are as under:-

“32. It is thus clear that though the appellant-Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into merits of the matter.

*33. The object underlying the above principle has been succinctly stated by Scrutton, L.J., in **R v. Kensington Income Tax Commissioners**, [(1917) 1 KB 486 : 86 LJ KB 257 : 116 LT 136], in the following words:*

It has been for many years the rule of the Court, and one which it is of the greatest importance to maintain, that when an applicant comes to the Court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts, not law. He must not misstate the law if he can help it. The Court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts, and the penalty by which the

*Court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the Court will set aside, any action which it has taken on the faith of the imperfect statement".
(emphasis supplied)*

34. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a Writ Court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

Thus we are of the considered opinion that the writ petitioners are even not entitled to be heard on merits, on account of the false averments made in the writ petitions.

However, since counsel has been gracious enough not to press the petitions, at the outset, we do not impose the exemplary cost of Rs. 1,00,000/- in both these petitions as had earlier been proposed.

Accordingly, the writ petitions are dismissed in view of the above.

(G.S. SANDHAWALIA)
JUDGE

February 14, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking
Whether Reportable

Yes
No