

CWP-87-2020 & connected cases

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(I) CWP-87-2020
Date of Decision : August 22, 2023

RAJBIR -PETITIONER

V/S

STATE OF HARYANA AND ANOTHER -RESPONDENTS

(II) CWP-8365-2019

RANDHIR AND ORS. -PETITIONERS

V/S

STATE OF HARYANA AND ANOTHER -RESPONDENTS

(III) CWP-8207-2019

ANIL AND OTHERS -PETITIONER

V/S

STATE OF HARYANA AND ANOTHER -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Neeraj Kumar, Advocate
for the petitioner.

Mr. Saurabh Mago, DAG, Haryana
for the respondents No.1 and 2.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur, Advocate and
Mr. Shivam Garg, Advocate
for the respondent- HSIIDC.

KULDEEP TIWARI, J.

1. Since all these three writ petitions arise out of the same acquisition proceedings, besides identical questions of law are involved therein, therefore they are amenable for a common decision being made thereon. For brevity, the

facts are being extracted from the lead petition, i.e. CWP-87-2020.

2. The petitioner, through the instant writ petition, seeks quashing of the notification dated 02.07.1973 (Annexure P-2), and, of the declaration dated 30.08.1973 (Annexure P-3), which were drawn respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894'). The petitioner craves the relief (supra), on the ground, that despite acquisition being made of the petition lands, through the notification and declaration (supra), and, despite an award being pronounced, on 16.10.1974, in pursuance to the notification and declaration (supra), yet neither any compensation has been paid to him, nor the possession of the acquired lands has been assumed by the acquiring authority concerned. Therefore, by dint of Section 24(2) of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013'), the acquisition proceedings have lapsed, and resultantly, the notification and declaration (supra) merit revocation. The petitioner also seeks relief qua protection of his possession over the petition lands.

3. Upon notice of the present petition being issued, the learned State counsel filed reply, through affidavit of Rajesh Aggarwal, Additional Director, Industries and Commerce Department, Haryana, on behalf of the respondent No.1, and, brought on record certain vital facts, which the petitioner conveniently concealed from this Court. The reply (supra) unveils that the lands of the petitioner were brought to acquisition by the respondent- State, for public purpose, namely, for setting up of a Sheet Glass Industry at Village Shankhol, Tehsil Jhajjar, District Rohtak. To accomplish the said public purpose, a notification under Section 4 of the Act of 1894 was issued on 02.07.1973, which was followed by issuance of a declaration under Section 6 of the Act of 1894, on 30.08.1973. The notification and declaration (supra) were succeeded by the pronouncement of an

award, on 20.06.1974, in respect of total 358 Kanals 7 Marlas of land.

4. The reply (supra) further make revelations, that upon pronouncement of the award (supra), the compensation amount of Rs.3,93,688.12/-, in lieu of the acquisition (supra), not only became tendered, but was also accepted by the petitioner. Furthermore, the petitioner even approached the learned Reference Court concerned, through his instituting a reference petition under Section 18 of the Act of 1894, seeking enhancement of the compensation amount and also succeeded in the said motion.

5. The further disclosure, as made in the reply (supra), pertains to execution of a deed of conveyance on 16.10.1974, in respect of 44.79 acres of acquired land, inter se the company concerned and the State Government. The possession of the land (supra) was assumed by the company concerned on 20.06.1974, as is evident from Rapat bearing No.429 recorded on 20.06.1974 (Annexure R-1).

6. The factum qua challenge being made to the acquisition proceedings (supra) through institution of CWP-14735-1991, at the instance of some of the landowners concerned, is also revealed in the reply (supra). Though the writ petition (supra) was allowed by this Court, through an order made on 05.03.1992, however, upon the said order being assailed before the Hon'ble Supreme Court, by the allottee company concerned through Civil Appeal No. 7023 of 1993, the order (supra) of this Court was set aside by the Hon'ble Supreme Court, vide order dated 29.10.2002. While allowing the appeal (supra), the Hon'ble Supreme Court made the hereinafter extracted categoric observations:-

“9. Looking to the facts of the present case and conduct of the respondents 1-5, the High Court was not at all justified in ignoring the delay and laches and granting relief to them. As already noticed, the respondent 1-5 approached the High Court by filing writ petition almost after a period of 17 years finalization of the acquisition proceed-

ings. They accepted the compensation amount as per the award and sought for enhancement of the compensation amount without challenging the notification issued under Section 4 and 6. Having sought for enhancement of compensation only, they filed writ petition even three years after the appeals were disposed of by the High Court in the matter of enhancement of compensation. There is no explanation whatsoever for the inordinate delay in filing the writ petitions. Merely because full enhanced compensation amount was not paid to the respondents, that itself was not a ground to condone the delay and laches, in filing the writ petition. In our view, the High Court was also not right in ordering restoration of land to the respondents on the ground that the land acquired was not used for which it had been acquired. It is well-settled position in law that after passing the award and taking possession under Section 16 of the Act, the acquired land vests with the Government free from all encumbrances. Even if the land is not used for the purpose for which it is acquired, the land owner does not get any right to ask for revesting the land in him and to ask for restitution of the possession. This Court as early as in 1976 in **Gulam Mustafa and others v. The State of Maharashtra and others**, [1976] 1 SCC 800] in para 5 has stated thus:-

“At this stage Shri Deshpande complained that actually the municipal committee had sold away the excess land marking them out into separate plots for a housing colony. Apart from the fact that a housing colony is a public necessity, once the original acquisition is valid and title has vested in the municipality, how it uses the excess land is no concern of the original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long after the requiring authority diverts it to a public purpose other than the one stated in the Section 6(3) declaration.”

What transpires from the hereinabove extracted part of the judgment (supra) is that the acquired lands have come to vest in the State Government concerned and the petitioner/landowner(s) concerned have no right, title and interest in such lands. The State Government has every prerogative to utilize the acquired lands efficiently for the relevant public purpose.

8. Pursuant to success of the motion, as instituted before the Hon'ble Supreme Court, the respondent- State initiated resumption proceedings of the land allotted to the allottee company concerned, notice whereof was issued on 06.01.2005. The said notice led the allottee company concerned to launch CWP-3750-2005 before this Court, whereupon, through an order made by this Court on 11.12.2007, the notice (supra) was ordered to be annulled, on the ground of non adherence of the principle of *audi alteram partem*. Aggrieved from the order (supra) of this Court, the State Government approached the Hon'ble Supreme Court, by filing Civil Appeal No.8378 of 2015, which resulted in an affirmative order being made thereon, on 07.10.2015, thereby upholding the resumption (supra).

9. The affirmative order (supra) of the Hon'ble Supreme Court enabled the respondent-State to proceed to transfer the acquired lands to H.S.I.I.D.C. (Haryana State Industrial & Infrastructure Development Corporation Ltd.), for carrying out the developmental activities. The said transfer took place vide Mutation No.6199 dated 25.01.2019. Now, the said compact vacant land is intended to be used for setting up Transport Nagar.

10. The hereinabove revealed facts, constrain us to draw an inference, that both the contingencies, inasmuch as, (i) pronouncement of award way back on 16.10.1974, whereupon, besides tendering of the compensation amount, the same was received by the petitioner; and (ii) assumption of possession of the acquired lands, through Rapat No.429 dated 20.06.1974; as contemplated in Section 24(2) of the Act of 2013, are duly fulfilled by the State Government.

11. The Hon'ble Supreme Court in case titled **“Indore Development Authority v. Manoharlal”, 2020 AIR (Supreme Court) 1496**, has categorically held that Section 24(2) of the Act of 2013 is not a tool to revive those lawfully concluded acquisition proceedings, in pursuance whereof, possession was as-

sumed in 1960s, 1970s and 1980s, and/or, to question the mode of deposit of compensation in the treasury. The intent behind enactment of the Act of 2013 can never be assumed to be revival of such claims. Therefore, in view of the law laid down by the Hon'ble Supreme Court in **Indore Development Authority's case (supra)**, the acquisition proceedings cannot be deemed to have lapsed. The relevant observations of the Hon'ble Supreme Court, as rendered in case (supra), are extracted as under:-

“363. In view of the aforesaid discussion, we answer the questions as under:

- 1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.*
- 2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.*
- 3. The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.*
- 4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accor-*

dance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. *In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.*

6. *The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).*

7. *The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).*

8. *The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.*

9. *Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceed-*

ings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”

12. Consequently, the petitioner is restrained from seeking quashing of the acquisition proceedings (supra), which were lawfully terminated in the year 1974. Moreover, the claim of the petitioner is grossly time barred and is stained with the vice of perversity, delay and laches. It is no more res integra that the person, who raises a claim after a considerable delay, is required to be told that delay and laches have closed the doors of courts for him. This aspect has been considered by 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**, wherein, it has been held that any belated challenge, as made to the relevant fully terminated acquisition proceedings, is hit by the vices of delay and laches, and therefore, such a belated motion is required to be declared as misconstituted. The relevant paragraph is reproduced as under:-

“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 Sneh 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.”

13. As a sequel to the hereinabove made discussions, this Court finds no merit in the instant writ petition and the same is accordingly dismissed.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 22, 2023
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No