

In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 16804 of 2000
Reserved on : 11.3.2024
Date of Decision: 08.4.2024**

Mool Chand Jain and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Argued by: Mr. A.P.Bhandari, Advocate
for the petitioners.

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

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of the notifications respectively issued under Section 4, and, under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'), besides seek the quashing of the award dated 28.4.1971.

Grounds raised in the instant case

2. The grounds, as raised in the instant writ petition for seeking the quashing of the said notifications, are that one Bhagwat Parshad Sharma had taken a piece of land consisting of an area of about 1000 sq yds. from one Jagmal in July 1950, at an annual rent of Rs. 80/-, and, a lease deed became executed between the above persons for a period of 15 years, and, had also taken another 1000 sq. yds. on rent from one Chandru and one Bhoja sons of Hardyal. Both the lands became comprised respectively in khasra No. 680, and, in khasra No. 681. The said Bhagwat Parshad Sharma had been in continuous possession of the said lands since June 1950, and, in the year

1960, he had made constructions over the said lands. Thereafter, the said Bhagwat Parshad Sharma had purchased the said lands vide sale deeds respectively dated 4.9.1987, dated 9.9.1987, and, dated 29.1.1988. It is further averred in the petition, that the petitioners are owners in actual physical possession of shops Nos. 4 and 5, measuring 5 feet x 9 feet each, forming part of khasra No. 34/2/2, situated at Parvesh Marg, Railway Road, Faridabad. It is further averred that shop No. 4 was constructed, and, completed in the year 1987 by one Subhash Verma, after purchasing the plot from Bhagwat Parshad Sharma. After the death of Subhash Verma, his legal heirs sold the said shop to petitioner Mool Chand Jain vide registered sale deed dated 4.3.1994. It is also averred in the petition, that shop No. 5 was also got constructed, and, completed in the year 1987, and, one Bhushan Lal had appointed one Ramesh Kumar as his general power of attorney, who later on got executed the registered sale deed of the said shop in favour of his wife Sunita Kumari-petitioner No. 2.

3. It is further averred in the petition, that the petitioners had filed a suit for permanent injunction, and, vide judgment dated 3.2.1999, the said suit became decreed in their favour. Being aggrieved from the judgment (supra), the respondents concerned, preferred an appeal before the statutory appellate authority concerned. However, on the joint statement of petitioner Mool Chand Jain, and, of the learned counsel for the respondents therein-petitioners herein, thus seeking permission to withdraw the suit (supra), to enable them to challenge the impugned notifications by filing a writ petition before this Court, thereupon the appeal (supra) became dismissed as having become rendered infructuous. However, the respondents therein were given two months' time for invoking the jurisdiction of this Court. The petitioners

No. 7130 of 1996, titled as Bhagwat Parshad Sharma versus State of Haryana. However, the said application was dismissed by this Court.

Reasons for rejecting the above grounds

4. However, for the reasons to be assigned hereinafter, the above claimed reliefs are liable to be declined.

5. From a perusal of the reply on affidavit, furnished to the instant petition, it is evident, that though two months time was given to the petitioners by the appellate authority concerned, to challenge the notifications (supra). However, the petitioners did not approach this Court within the said stipulated period. Resultantly, since the instant writ petition has been filed outside the period of two months granted to the petitioners, by the learned first Appellate Court concerned, as such, the instant petition is not maintainable the same being time barred.

6. Moreover, it is also evident that the sale deeds dated 4.3.1994, and, dated 19.12.1995 became executed post the issuance of notification(s) under Sections 4 and 6 of the Act of 1894. Therefore, the said deeds of conveyance are vitiated, as on launching of the acquisition proceedings, the vendor concerned, became divested of any right, title or interest over the acquired lands, whereas, complete investment of right, title and interest over the acquired lands became conferred upon the acquiring authority. Furthermore also, in the face of the above no valid instrument could be drawn inter se the vendor concerned, and, the vendee concerned. The reason being that, when title in the writ lands became vested for reasons (supra) in the acquiring authority concerned, thus the execution of instrument (supra) is tainted with a vice of illegality.

7. Be that as it may, since it is also stated in reply, on affidavit,

furnished to the instant petition, that the petitioners have raised rather in the

prohibited area, thus constructions over the lands belonging to the Railway Department. Moreover, when it is further averred in the reply, that the land in question became acquired for the benefit of the public. Resultantly, when therebys the lands whereons such illegal constructions exist do further the requisite public purpose. Therefore, for ensuring the furtherance of public purpose, which would but be achieved on acquisition of lands, whereons, the said illegal constructions exist, as such, the claim for release of the said lands from acquisitions, but cannot be said to be a well laid claim by the land losers concerned. Moreover, since reiteratedly the said constructions have been raised in the prohibited area, thus on lands, which belong to the Railway Department, whereons, the railway line becomes constructed. In sequel, this Court does not deem it fit, and, appropriate to release the said lands from acquisition.

8. Even otherwise, the notification for acquisitions became issued in the year 1971, therefore, the institution of the instant writ petition, rather in the year 2000, makes it to become imbued with gross pervasive stains of delay and laches.

9. Even the Hon'ble Apex Court in a judgment rendered in case titled "*M/s 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 lawfully fully terminated acquisition proceedings, thus is hit by the vices of delay and laches, and thereby too, the said belated motion as existing in the instant petition, is but required to be declared as misconstituted.

"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 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 & Ors. vs. The State of Haryana* [J] 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 *Y.N. Garg vs State of Rajasthan* [1996 (1) SCC 284] and *Sneh Prabha vs. State of U.P.* [1996 (7) 325], this Court had held the alienation 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, Lucknow through its Chairman & Anr. vs. M/s Kalra Properties (P) Ltd., Lucknow & Ors.* {(1996) 1 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 Madhya Pradesh & Anr. vs. Bhailal Bhai & Ors.* [AIR 1964 SC 1006] 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 was view reiterated in catena of decisions, viz., *Rabindranath Bose & Ors. vs. The Union of India & Ors.* [(1970 (1) SCC 84]; *State of Mysore & Ors. vs. Narsimha Ram Naik* [AIR 1975 SC 2190]; *Aflatoon & Anr. vs. Lt. Governor of Delhi* [(1975) 4 SCC 285]; *M/s. Tilokchand Motichand & Ors. vs. H.B. Munshi, Commissioner of Sales Tax, Bombay & Anr.* [AIR 1970 SC 898]; *State of Tamil Nadu & Ors. etc. V. L. Krishnan & Ors. etc.* [JT 1995 (8) SC 1]; *Improvement Trust, Faridkot & Ors. vs. Jagjit Singh & Ors.* [1987 Supp. SCC 608]; *State of Punjab & Ors. vs. Hari Om Co-operative House Building Society Ltd., Amritsar* [1987 Supp. SCC 687]; *Market Committee, Hodal vs. Krishan Murari & Ors.* [JT 1995 (8) SC 494] and *State of Haryana vs. 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 judgement in *Municipal Corporation of Great Bombay vs. The Industrial Development*

& Investment Co. Pvt. Ltd. & Ors. [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. ”

Final Order of this Court.

10. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned notifications, and, award are maintained and affirmed..
11. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

April 08, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No