

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2024:PHHC:105157-DB



1. CWP-5177-1997 (O&M) Date of Decision: 13.08.2024

M/s Sawan Spinning Mills & others --Petitioners
Versus

State of Haryana & others --Respondents

2. CWP-5178-1997 (O&M)

M/s Shri Ganesh Spinning Mills --Petitioner
Versus

State of Haryana & others --Respondents

CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA.
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.

Present:- Mr. Neeraj Gupta, Advocate for petitioners.

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

Mr. Parmod Sharma, Advocate for respondent no.2.

G.S. SANDHAWALIA.J (Oral)

1. This order shall dispose of the above mentioned two writ petitions as common issue is involved therein.

2. The present proceedings are a classic case of the 'Relentless Litigants', as described by the Apex Court in case of **Faizabad Ayodhya Development Authority Vs. Dr. Rajesh Kumar Pandey and others, 2022 SCC Online SC 679**, who firstly having got a stay from the civil court, now choose to get benefit of the same to scuttle the acquisition proceedings for the land development of Sectors 6, 7 and 8 Panipat and have secured the benefits of interim orders for the last about 35 years.

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3. The petitioners in CWP-5177-1997 having got released of 3 kanals 10 marlas of land out of the 16 kanals 17 marlas owned by them, whereas in CWP-5178-1997 petitioners having ownership of 8 kanals 3 marlas and having released 7 kanals 10 marlas, still remained dissatisfied with the action of the authorities and alleged discrimination.

4. The purchase of land in CWP-5177-1997 is on 31.03.1989, as per the averments made in paragraph 2, whereas in CWP-5178-1997 the same is on 03.03.1989. The allegations in the writ petitions are clearly common even the objections under Section 5-A of the Land Acquisition Act, 1894 (for short the Act) also being filed in close proximity. The allegations are that a Spindle Licence was granted to the petitioners on 31.03.1989 by the Director of Industries and the sale deed is also of the same date in the first case and the construction is stated to have been completed in April, 1989 to beat the deadline of Section 4 notification on 10.05.1989. The necessary security amount for grant of electricity connection was also deposited on 25.04.1989.

5. The averments are that there was no publication in the locality as required under Section 4 of the Act but on the contrary objections were filed under Section 5 of the Act (Annexure P-2). The allegations are that they were not heard and therefore the notification issued on 09.05.1990 (Annexure P-3) has been sought to be challenged. It is admitted that a civil suit was filed challenging the notification which from the record produced by the State would go on to show that M/s Shri Ganesh Spinning Mills (CWP-5178-1997) filed a suit on 01.05.1992. A stay was given by the Civil Court, Panipat on 06.05.1992 a day before the award was passed on 07.05.1992. In the written statement also filed in civil suit from the record

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would also go on to show that land measuring 3 kanals 10 marlas had been released. It is specifically averred that due publication was done in the area. A perusal of the order would go on to show that defendants were restrained from acquiring possession over the suit land and *dasti* summons were issued. The said fact also finds mention in the pleadings of the plaintiffs itself. Vide order dated 11.10.1994 the Trial Court vide detailed order rejected the contention and stated that there was no question of discrimination and while referring to the litigation pending, the Court disposed of the matter way back on 18.11.1992. It was also noticed that 3 kanals 10 marlas of land had also been released while noting that the jurisdiction of Civil Court was barred and resultantly in the absence of the plaintiff able to prove a prima facie case, the balance of convenience in favour of the ad interim injunction and the irreparable loss being caused to the State, the application was dismissed. The officials of the State were directed not to take any further step in one month so that defendants may be able to avail remedies available under law, if, so advised. The relevant part of order dated 11.10.1994 reads as under:-

“13. In view of the discussion above, it is clear that the plaintiffs have not been able to prove a prima facie case or balance of convenience in their favour for issuance of ad-interim injunction and no irreparable loss or injury is going to be caused to them because the State Govt. is carrying out the acquisition proceedings in due process of law. If the stay is granted, the defendants would be put to suffer an irreparable loss and injury because the policy framed by the Govt. would be set at naught to develop the suit land for the purpose for which it has been acquired. Hence, this application being without merit is hereby dismissed.

14. Keeping in view the exigency of the matter, it is directed

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that the defendants would not take any further step for one month from today, so that the plaintiffs may be able to avail their remedies provided under law, if they are so advised.

15. However, this order shall have no bearing on the merits of the case.”

5. It is not disputed that the supplementary award was passed on 12.11.1994 (Annexure P-7), which would, thus, exclude the time spent in the prosecution and defending the litigation initiated by the present petitioners. It has also been mentioned that the stay was granted on 21.04.1992, which apparently is in reference to the proceedings in M/s Spintex (India) & another Vs. State of Haryana & others (CWP-13580-1999), which we have also decided today by separate order.

6. The stand of the State is crystal clear regarding the fact that after considering the objections filed under Section 5-A of the Act, report of the Land Acquisition Collector and the Joint Site Inspection Committee the award had been announced on 12.11.1994 and possession had been handed over on the same day to HUDA. It was stated that there is no absolute right on account of construction over the land, the same cannot be acquired. The factum of granting Spinddle Licence has been denied. Apparently, nothing has been attached in support of the grant of licence. It has been pleaded that the petitioners were afforded opportunity of hearing but they did not appear and the objections were considered in their absence and sent to the Government for taking a decision. It has been further averred that notices under Section 9 were issued to all land owners and they were received but the petitioners refused to receive the same and the award was announced on 12.11.1994. Since the stay application was pending and was only dismissed on 11.10.1994 for the issuance of ad interim injunction. It is specifically mentioned that the land of the petitioners could not be included in the award

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no.4 of 1992-1993 dated 07.05.1992 as the proceedings had been stayed by the Senior Sub Judge, Panipat and after the decision on 11.10.1994, the award was made on 12.11.1994. It is pleaded that it was open for the petitioners to collect the amount of award but they did not collect the same deliberately. The acquisition proceedings had been stayed on 06.05.1992. The award could not be announced and only after vacating the stay of 11.10.1994 since another one month benefit had been given, the award could only be made on 12.11.1994.

7. Learned counsel for the petitioners has referred to the earlier interim order dated 15.03.1999 passed by a Coordinate Bench at that point of time, while admitting the case and granting stay.

8. We have also gone through the record and noticed that stay was declined while issuing notice of motion on 11.04.1997. It is, thus, contended that the State does not have any record to show that the objections raised by the petitioners had been considered by the competent authority. The record now produced would go on to show that in the case of M/s Sawan Spinning Mills (CWP-5177-1997) there was an endorsement made that there were photographs taken on 16.07.1989 and 05.04.1990 that construction was being completed between the two dates and was still going on which is after Section 4 notification. It is, thus, apparent that the averments made that the area had been fully constructed is absolutely incorrect as noticed earlier, the land was purchased only in the case of M/s Sawan Spinning Mills (CWP-5177-1997) on 31.03.1989 and on 03.03.1989. Apparently, the constructions were raised after the Section 4 notification on 10.05.1989 and inspite of that the State has chosen to release 3 kanals 10 marlas of land out of 16 kanals 17 marlas. Similarly in case of M/s Shri

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Ganesh Spinning Mills (CWP-5178-1997), there is release of 7 kanals 10 marlas out of 8 kanals 3 marlas and also there is a similar report that between 16.07.1989 and 05.04.1989 photographs had been taken and construction was completed between the two dates and the same was still going on. The record would go on to show that the petitioners have raised construction after notification of Section 4 was issued and thus cannot take the benefit of their own illegal acts. It is also pertinent to notice that there is nothing placed on record that there was any permission taken from the concerned authority to raise an industrial unit after having purchased the property and neither any material has been placed on record to show that the building plans were duly sanctioned by any authority and therefore the claim that construction was present prior in point of time, is apparently not justified. The State having granted the benefit and was indulgent enough to release 7 kanlas 10 marlas of land out of 8 kanals 3 marlas in case of M/s Shri Ganesh Spinning Mills (CWP-5178-1997) and 3 kanals 10 marlas of land out of 16 kanals 17 marlas in case of M/s Sawan Spinning Mills (CWP-5177-1997) and have acted upon the request and released the land, which did not come into the planned development and therefore further indulgence cannot be granted to the petitioners. A perusal of the order dated 30.04.2015 passed by a Division Bench of this Court in CWP-8625-1990 would go on to show that another person had been released 3.5 acres of land which fell outside the green belt/service road. This fact cannot be taken into account as the said writ petition was filed in the year 1990 before the award had been passed, whereas in the present case the petitioners have approached this Court much later i.e. in the year 1997 after having failed in their attempt to scuttle the acquisition proceedings by resorting to file civil suit and only

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after the stay was vacated on 11.10.1994. The State in its wisdom may have granted the benefit of release to some another person and on that basis, there is no vested right which can accrue in favour of the present petitioners specially keeping in view their conduct of having raised construction after the Section 4 notification had been issued and have tried to take advantage of the same.

9. In view of the above, in our considered opinion, the present petitions have no merit and the same are, accordingly, dismissed. All pending civil misc. application(s) stand disposed off and interim orders stand vacated.

(G.S. SANDHAWALIA)
JUDGE

13.08.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No