

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 7130 of 1996

Reserved on : 11.3.2024

Date of Decision: 08.4.2024

Bhagwat Parshad Sharma (deceased) through LRs.

.....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 (Annexure P-19), and, under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894') (Annexure P-20), besides seek the quashing of the award dated 28.4.1971 (Annexure P-21).

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 petitioner Bhagwat Parshad Sharma (since deceased) 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 them for a period of 15 years. In the year 1969, the petitioner Bhagwat Parshad Sharma (since deceased) 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. Petitioner 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 petitioner (supra) 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 vide notification dated 3.2.1951, the District magistrate, Gurgaon proceeded to acquire the said property under Section 2 of the East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1948. However, no opportunity of hearing was afforded to the petitioner prior to requisitioning or acquisition of the said property. It is also averred in the petition, that the notification under Section 4 of the Act of 1894 was not published in the locality, and, that it was not published in two newspapers, as required under law.

Reasons for rejecting the above grounds

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

4. From a perusal of the reply on affidavit, furnished to the instant petition, it is evident, that the land in question became acquired for the construction of third railway line between Ballabgarh to Tuglakabad. 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 the land, which

belong to the Railway Department, whereons, the railway line becomes

constructed. Moreover also, when the possession of the acquired lands was given to the Railways on 27.3.1971, and, munadi was got conducted in the locality, besides rapat was also entered in the Rapat Roznamcha of Halqa Patwari. In sequel, this Court does not deem it fit, and, appropriate to release the said lands from acquisition.

5. Furthermore, it is also evident that the sale deeds dated 4.9.1987, dated 9.9.1987 and dated 29.1.1988 became evidently 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 the 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 execution of the instrument (supra) is tainted with a vice of illegality.

6. Even otherwise, the notifications for acquisitions became issued in the year 1971, therefore, the institution of the instant writ petition, rather in the year 1996, makes it to become imbued with gross pervasive stains of delay and laches.

7. 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

related 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.

8. 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..
9. 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