

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-13798-2012 (O & M)

Reserved on: 21.02.2024

Pronounced on: 29.02.2024

RAM AVTAR BATRA

.....Petitioner

Versus

STATE OF PUNJAB AND ORS.

....Respondents

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

Argued by: Mr. Mohit Jatti, Advocate
for the petitioner.

Mr. Avnish Mittal, Addl. Advocate General, Punjab
for the respondent-State.

Mr. Maninder Singh, Sr. DAG, Punjab.

Ms. Anu Chatrath, Senior Advocate with
Mr. Nikhil Singh, Advocate
for the respondent- GMADA.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner(s) herein prays for the quashing of the acquisition notification(s), as issued respectively under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894') and further for the quashing of the re-allotment letters (Annexures P-5 to P-8), as issued in favour of respondents No. 5 to 8, by the Chief Administrator, PUDA.

Factual Background.

2. The notification under Section 4 of the 'Act of 1894' was issued on 21.02.2000, thus for acquiring the land for the public purpose for setting up of residential Urban Estate at S.A.S. Nagar, Mohali followed by a declaration under Section 6 of the 'Act of 1894' on

3. The petitioner through his predecessor-in-interest applied to PUDA for regularization of his house in pursuance to the public notice (Annexure P-10), as issued by PUDA for regularizing of illegal construction(s) in the periphery of Chandigarh, which are situated outside the boundaries of Urban Estate, S.A.S. Nagar. In pursuant to the said notice, the petitioner applied to the Estate Officer-respondent No. 3 for exemption of his property.

4. However, since the house of the petitioner became acquired for the development of Sector 76-80, and, was falling within the boundary line of Urban Estate, S.A.S. Nagar, thereupon, his request for regularization of his house was rejected vide office memo No. 3611 dated 25.07.2011.

5. The amount of compensation payable to the petitioner qua his land acquired vide award No. 481 dated 17.05.2001 was deposited by the Land Acquisition Collector, Urban Development, S.A.S. Nagar in Government Treasury vide RD No. 371 dated 24.07.2004 and thereafter, on 02.01.2017, the said amount which was not claimed by the concerned land losers was deposited with the Reference Court vide Cheque No. 636023 dated 02.01.2017, which also includes the compensation of the petitioner.

Submissions of the learned counsel for the petitioner.

6. The learned counsel for the petitioner(s) submits, that in Section 4 and Section 6 notification(s), the land was being acquired to set up residential urban estate. However, after acquiring the land which included the land of the petitioner(s) and the scattered land of the respondent No. 5 – Radha Swoami Satsang Beas (hereinafter for short

block/sector to respondent No. 5, instead of developing a residential estate as stated in Section 4 notification. Hence, there is a change of public purpose of the acquisition, as spelt in the acquisition notification(s).

Submissions of the learned State counsel.

7. The allegation of the petitioner, that the purpose has been diversified, is absolutely wrong, inasmuch as, in terms of clause 9.1 of the Standing Order No. 28 of the Govt. of Punjab, no religious place of worship, shrine, tomb, grave-yard or any immovable property attached to any such institution, the boundaries of which are continuous with the site of the same, rather can become acquired compulsorily.

8. Since the land of religious body/place of worship could not be acquired, thereupon the said land was re-allotted to the 'Dera' by the Government with specific conditions, inasmuch as, to keep the land under minimum construction and maximum being kept as green. As on today, the land constructed is less than 3 % of the 200 Acres. Therefore, it is contended that there is no breach of the conditions as carried in the conditional allotment made to the 'Dera'.

9. The said parcels of lands were acquired for planned development of Sectors 76-80 and after planning only 200 acres of land were re-allotted to the Society in Sector – 76, which is predominantly an institutional sector, so that these parts of land, thus used as Satsang Ghar, by the society rather do not come in the way of compact development of these sectors. The Society is using the land re-allotted to it only for religious congregations and construction only upto 5 % has been done at the site concerned.

impact would be to return the scattered land measuring 234 acres, which is now part of developed sectors of Mohali District, which will not be feasible at all.

11. The possession of the land has already been taken while award was passed and the compensation amount taken by the villagers. The challenge to re-allotment and acquisition is highly belated and a manipulated motion raised at the instance of the petitioners.

Inference of this Court.

12. On a reading of para No. 7 of the reply, on affidavit, as filed by respondents No. 2 and 3, it is revealed that the petitioner herein had never challenged the launched acquisition proceedings qua his land, therefore, there was no occasion to offer him any special package, which was meant only for such petitioner(s)/land owners, whose acquisition was quashed by the Hon'ble Apex Court.

13. 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 mis-constituted.

"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. ”

14. Furthermore, the request of the petitioner for exemption of his property from acquisition was duly considered and rejected vide memo No. GMADA...../3611 dated 25.07.2011 (Annexure P-13) by the authority concerned, on the ground that unauthorized construction raised by him rather falls in the land acquired by PUDA for development of Sectors – 77 and 78, SAS Nagar, Mohali.

15. The ground as set forth in Annexure P-13, whereby the petitioner's claim for his becoming granted the benefit of regularization policy (Annexure P-10), is founded on the premise, that the said unauthorized construction rather is part of the acquisition(s) made by PUDA thus for development of Sectors 77 and 78, SAS Nagar, Mohali. Therefore, it appears that the said rejection is well founded as the acquired estate is an integral component of the layout plan and if Annexure P-13 is interfered with, thereby there would not only be an untenable interference with the layout plan, but also it would result in this Court forestalling the relevant public purpose, which otherwise the acquired estate of the present petitioner, thus would sub serve.

16. Predominantly, also, it appears that though the petitioner(s) lands became acquired for developing thereons residential estate. Moreover, it also appears that the public purpose stated in the acquisition notification became changed to the said acquired lands becoming allotted to the 'Dera' rather in lieu of the acquisition(s) being made of the land of the 'Dera,' whereons, the developmental activities

became subjected to development activities. Furthermore, if in lieu of the said development taking place on the acquired lands of the 'Dera' thus the subject lands became allotted in one big block/Sector to the 'Dera', whereons, a public purpose becomes sub served, inasmuch as, the subject lands catering to the spiritual and religious needs of a sizeable section of population.

17. Though the above is in digression of the stated public purpose in the acquisition notification. However, when the dynamics of public purpose are ever changing and are not static, thereby also any digression from the initially stated public purpose in the acquisition notification to the public purpose (supra), thus also does not become stained with any palpable vice of any arbitrariness or nepotism. Predominantly, and reiteratedly for the reason that the said change is also sub serving a public purpose, inasmuch as, its catering to the spiritual and religious needs of a sizeable section of the population.

18. Even otherwise, in case, this Court proceeds to accept the challenge to the launched acquisition therebys, it would lead to the ill consequence of the developed acquired sites, thus being directed to be allotted to the 'Dera', especially when the said developed sites were owned by the 'Dera' prior to the issuance of a notification under Section 4 of the 'Act of 1894'.

19. Even otherwise, since the assessed compensation amount, qua the acquired estate of the petitioner is available with the Reference Court for it being disbursed to him. Thus, also the present petitioner has no *locus standi* to challenge the launched acquisition proceedings.

Final Order of this Court.

and is constrained to dismiss it.

21. The writ petition is accordingly dismissed but with the aforesaid observation(s).

22. The impugned acquisition notification(s) and the consequent thereto impugned award are maintained and affirmed.

23. No order as to costs.

24. Since the main case itself has been decided, thus, all pending application(s), if any, are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

29.02.2024

kavneet singh

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