

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 1887 of 2015 (O&M)

Reserved on : 16.4.2024

Date of Decision: 29.4.2024

Gajraj Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Argued by: Mr. Gaurav Aggarwal, 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 notification dated 11.8.2004 (Annexure P-3), and, also seeks the quashing of notification dated 9.8.2005 (Annexure P-7). The said notifications were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The consequent thereto award dated 8.12.2006 (Annexure P-8), has also been asked to be quashed, and, set aside.

2. The above espoused writ claims become founded upon the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013'), whereunders the petitioners become empowered to claim the making of a lapsing declaration.

3. Earlier the instant petition along with CWP-11445-2008 and other connected CWPs were disposed of by this Court on 27.10.2016. The said decision became challenged before the Hon'ble Apex Court by filings

of SLPs. The Hon'ble Apex Court through a decision made on 13.11.2021, on the said SLPs, set aside the impugned order, and, remitted the instant writ petition to this Court for deciding it afresh. Thereafter, when the instant petition came up for hearing on 27.9.2022, it was adjourned sine die to await the decision of SLP (C) No. 003881-2020. The operative part of the decision on the said SLP is extracted hereinafter.

“In such view of the matter, the appeal is allowed.

Accordingly, the impugned order stands set aside and the matter is remitted to the High Court to be decided on the issues other than the one covering the field in Indore Development Authority (supra)”

4. In view of the above, this Court is not required to be considering the relief relating to the making of a lapsing declaration in terms of Section 24(2) of the Act of 2013.

Grounds raised in the instant petition

5. The grounds, as raised in the instant petition by the petitioners that they are the joint owners in possession of land measuring 10 kanals 15 marlas situated in the revenue estate of village Molahera, Tehsil and District Gurgaon. It is further averred in the instant petition, that after the issuance of the impugned notification under Section 4 of the Act of 1894, the petitioners had filed objections under Section 5-A(2) of the Act of 1894. The petitioners had earlier filed CWP-18682-2005 before this Court, against the impugned notifications, and, vide an interim order 8.12.2005, the dispossession of the petitioners was stayed by this Court. The petition (supra) along with other petitioners were disposed of by this Court vide order dated 3.12.2008. While deciding the said writ petition, this Court had directed the respondents concerned, to consider the case of the petitioners

for release of shops, and, also directed the petitioners to make a detailed

representation to the respondents concerned. Pursuant to the order (supra), the petitioners filed a representation before the respondent concerned. Vide communication dated 6.7.2009, the said representation of the petitioners was shown to be partially allowed. It is further averred in the instant petition, that the petitioners were never paid the assessed compensation amount.

Reply on behalf of the respondents concerned

6. It has been stated in the reply on affidavit, furnished to the instant petition that the rapat possession of the acquired lands became assumed through rapat bearing No. 291 dated 22.12.2009, and, the determined compensation amount being deposited with the Court concerned, for its becoming disbursed to the land losers concerned. It is further stated in the reply on affidavit, that the objections filed by the petitioners under Section 5-A of the Act of 1894 were duly considered by the competent authority concerned, therefore, the petitioners have no cause of action to challenge the acquisition proceedings.

Reasons for rejecting the above grounds

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

8. A reading of reply to the instant petition, reveals that the petitioners were granted opportunity to file objections under Section 5-A of the 'Act of 1894' and they also availed the said opportunity, through their filing objections to the acquisition proceedings. However, the objection(s) as became filed by the petitioners (supra) became decided against the petitioners, thus leading to the makings of the impugned notification/declaration. Therefore, the order dismissing the apposite objections is a well informed order, and, thereby it is required to be upheld.

9. Be that as it may, since it is also stated in reply, on affidavit, furnished to the instant petition, that the subject lands are an integral component of the layout plans, thereby when they are facilitating the relevant public purposes. Consequently, when public purpose, than the individualistic interest is rather to be furthered, 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.

10. Even otherwise, the notifications for acquisitions became issued in the year 2004, therefore, the institution of the instant writ petition, rather in the year 2015, makes it to become imbued with gross pervasive stains of delay and laches.

11. 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.

12. In aftermath, this Court finds no merit in the writ petition, and,

with the above observations, the same is dismissed with costs of

Rs. 25,000/- upon each of the petitioners to be forthwith deposited by the petitioners with the ‘Punjab and Haryana High Court Bar Association, Chandigarh’. The impugned notifications, and, award are maintained and affirmed.

13. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(AMARJOT BHATTI)
JUDGE

April 29, 2024
Gurpreet

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