

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 3330 of 2014 (O&M)

Reserved on : 16.4.2024

Date of Decision: 29.4.2024

M/s Tinna Rubber and Infrastructure Limited

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Argued by: Mr. Vishal Sharma, 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 petitioner seeks for the issuance of a writ declaring 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'), becoming lapsed, as the award in question was made more than 5 years prior to the commencement of the Act of 2013. The petitioner also seeks a direction being issued upon the respondents concerned, to release the land measuring 34 kanals 8 marlas belonging to it, which was acquired in view of the policy of the Government of Haryana (Annexure P-16) after quashing the impugned order (annexure P-21), whereby the request of the petitioner company for the release of its land, became declined.

2. 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 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)”

3. 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

4. The grounds, as raised in the instant petition by the petitioner are, that the land of the petitioner company was sought to be acquired vide notification dated 16.6.2006 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The said notification was succeeded by a declaration dated 15.6.2007, issued under Section 6 of the Act of 1894. The consequent The consequent thereto award became pronounced on 22.2.2008. However, till date no compensation for the entire acquired land has been paid to the petitioner, and, that the possession of 20 kanals 12 marlas of lands out of the total land, is still with the petitioner. It is further averred in the instant petition, that the land in question i.e. 34 kanals 8 marlas situated in the revenue estate of village Rajapur, Tehsil and

registered sale deeds dated 6.9.2000 and 1.3.2002. The petitioner company had applied for, and, was granted the licence to set up the factory over the petition land, by the Deputy Director, Industrial Safety and Health. It is further averred in the instant petition, that earlier the petitioner had also challenged the impugned notifications by filing CWP-14917-2008 before this Court. However, the said petition became dismissed by this Court, on 15.12.2008.

Reply on behalf of the respondents

5. It has been stated in the reply on affidavit, furnished to the instant petition by the respondents concerned, that the notification(s) (supra) were duly published in the official Gazette of the State Government, and, were also published in the daily newspapers. It is further stated in reply on affidavit, that the possession of the acquired lands became assumed through rapat bearing No. 304 dated 30.4.2008, and, that the petitioners did not come forward to receive the compensation amount. However, the said determined compensation amount being deposited with the Court concerned, for its becoming disbursed to the land losers concerned. It is further stated therein, that the instant petition is barred by the principles of res judicata.

Reasons for rejecting the instant petition

6. For the reasons to be assigned hereinafter, the writ relief is not amenable to become accorded to the present petitioner.

7. The petitioner had filed a representation before the competent authority, whereby it claimed an order for releasing the subject lands from acquisition. On the said representation, an order Annexure P-21 was made, which is also impugned before this Court. The relevant portion of Annexure P-21 are extracted hereinafter.

3. As requested by the representative of the company namely; M/s Tinna Overseas Ltd. the next date of personal hearing was fixed for 2.7.2013 at 11.00 A.M. in the office of HSIIDC, Panchkula. Sh. Bhupinder Kumar Sekhri, Chairman/tinna Overseas Ltd. attended the hearing on the said date on behalf of Tinna Overseas Ltd. Panipat. CTP/HSIIDC and GM(Estate) were also present during the said hearing. Sh. Bhupinder Kumar Sekhri requested the corporation for release of his land. Sh. Sekhri was informed that the said land had already been acquired by the State Government along with rest of the land for setting up of I.E. Panipat. The request of the company for release of its land had already been rejected by the State Government on the following grounds:-

- (i) That the party did not file objections under 5A of the Land Acquisition Act.
- (ii) That the Award had been announced and the LAC had completed the possession formalities.
- (iii) That they had already lost their case in the High Court.

It was also informed that the State Government/HSIIDC had decided to re-allot approx. 20 kanal of land, out of total area of 34 K 8 M to the party for which they would have to agree to the HSIIDC's Road Circulation Plan. Accordingly, HSIIDC vide its letter No. HSIIDC:Estate: 2012:399 dated 11.4.2012 conveyed its in principle approval for allotment of 2.55 acre of land to the party and the party was advised to remit 10% tentative price of the plot along with other documents so as to issue Regular Letter of Allotment in their favour. Sh. Bhupinder Kumar Sekhri could not give satisfactory reply with regard to non remitting of the application money to the Corporation against allotment of Plot No. 415 I.E., Panipat.

In view of the above, I hereby order to withdraw the letter dated 11.4.2012 issued by the Corporation to M/s Tinna Overseas Ltd., conveying in principal approval for allotment of

Plot No. 415, I.E. Panipat.”

8. A reading of the contents of Annexure P-21 discloses, that the reason which prevailed upon the authority, who rendered the same, became embedded in the factum, that the petitioner did not file the objections under Section 5-A of the Act of 1894, and, that the claim for release from acquisition of the subject lands, was made post the pronouncement of the award, and, that the petitioner had earlier fought an unsuccessful battle before this Court.

9. Moreover, it also unfolded therein, that despite an approval in principle being made for allotment of 2.55 acres of land to the petitioner, but subject to the condition to remit 10% of the tentative price of the plot along with other documents, so as to ensure the issuance of a Regular Letter of allotment in its favour, yet the said condition remaining uncomplied with, leading to withdrawal of the letter dated 11.4.2012, wherein, the said conditional approval for allotment of land (supra) became conveyed.

10. The import of the above disclosures occurring in Annexure P-21, is that, the petitioner abandoning an opportunity to through raising objections under Section 5-A of the Act of 1894, to thus claim the release of the subject land. Resultantly, the effect of the said abandonment of opportunity, is that, the claim for release of the subject land from acquisition, is but an invented or a strategized claim, and, is required to be rejected.

11. Furthermore, a reading of Annexure P-21 also discloses, that the competent authority had in principle approved the allotment of land measuring 2.55 acres to the petitioner, but it was made subject to certain conditions becoming complied with. However, the said condition remained uncomplied with, resultantly the approval embedded in letter dated

11.4.2012, become withdrawn. Therefore, it appears, that though the competent authority deemed it fit, and, appropriate to re-settle or re-locate the petitioner at some other sites but the present petitioner did not accept the conditional allotment. Contrarily, the petitioner canvassed, that the subject lands be released from acquisition, and, that too post the making of the award, besides despite an opportunity to claim release of lands, through the filing of objections under Section 5-A of the Act of 1894, rather becoming abandoned, whereby the petitioner is estopped from claiming that release of the subject lands be made in its favour.

12. Even otherwise, the notifications for acquisitions became issued in the year 2006, therefore, the institution of the instant writ petition, rather in the year 2014, makes it to become imbued with gross pervasive stains of delay and laches.

13. 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.

14. 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, the petitioner to be forthwith deposited by the petitioner with the ‘Punjab and Haryana High Court Bar Clerks Association, Chandigarh’.. The impugned notifications, and, award are maintained and affirmed.

15. 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