

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-24897-2018

Reserved on: 09.04.2024

Pronounced on: 24.04.2024

GURDEV KAUR AND ORS.

.....Petitioners

Versus

STATE OF PUNJAB AND ORS.

....Respondents

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

Argued by: Mr. Surjit Singh Swaich, Advocate
for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Ranjit Singh Kalra, Advocate and
Mr. Randeep Singh, Advocate
for respondents No. 2 and 3.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioners seek the quashing of notification bearing No. 6/9/2000-1 HGI/501 dated 23.01.2004 (Annexure P-6), and, also seek the quashing of notification bearing No.6/02-2005-1 HGI/437 dated 18.01.2005 (Annexure P-7). The said notification(s) were respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'). The consequent thereto award bearing No. 494 dated 26.12.2006, 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 (hereinafter for short called as 'the Act of 2013'), whereunders the

petitioners become empowered to claim the making of a lapsing declaration.

3. Further, a prayer is made for directing the respondents to not oust the petitioners and their family members from residential house No. 91 falling in Khasra No. 255 situated within the *phirni* of village Mauli Baidwan, Tehsil and District SAS Nagar, Mohali, in view of rehabilitation/relocation policy dated 18.02.2014 (Annexure P-10).

4. The present petitioners would be entitled to the espoused writ relief(s), as relates to this Court, thus declaring rather lapsed the extantly drawn acquisition proceedings, but only when the provisions embodied in Section 24(2) of the Act of 2013, become proved to become breached by the respondents. However, for the reasons to be assigned hereinafter, the asked for relief qua the making of a lapsing declaration rather cannot be accorded by this Court.

5. Primarily for the reason, that the present petitioners would be entitled to coax this Court to declare the launching of the acquisition proceedings under the 'Act of 1894', to thus become lapsed, but only when the respondent-State, rather had completely failed to, in terms of the verdict rendered by the Constitutional Bench of the Hon'ble Apex Court in ***Indore Development Authority versus Manohar Lal and others, reported in (2020) 8 SCC 129***, adduce sufficient/clinching discharging evidence, in respect of the duo parameters, inasmuch as, (i) qua rapat possession being made over the acquired lands, (ii) and, qua the compensation, as became determined by the Collector concerned, becoming deposited for therebys its becoming available for being released to the land losers concerned, besides the said events evidently

6. To determine the above, it is necessary to refer to the reply on affidavit, which has been placed on record by the learned State counsel. A reading of paragraph No. 5 of the reply reveals, that the disputed lands are comprised in Khasra No. 255/3, 255/2 and 255/1, form a part of Jumla Mushtarka Malkan of village Mauli Baidwan. Further, as per revenue record maintained in the Office of the Land Acquisition Collector, Urban Development, SAS Nagar, the petitioners are not recorded as land owners rather the ownership of the subject lands was in the name of Harbhajan Singh (since deceased), who was the husband of petitioner No. 1. The said recorded land owner is stated on reply on affidavit, to receive the compensation amount of Rs.25,028/- for the acquired jumla mushtarka malkan land vide cheque No. 650717 dated 05.06.2007. In addition, the said Harbhajan Singh (since deceased), is also disclosed on reply on affidavit, to receive the compensation amount comprised in a sum of Rs.7,70,850/- vide cheque No. 727278 dated 31.08.2007. The said compensation amount appertains to the structure (house).

7. The facts (supra) when disclose that the predecessor-in-interest of the present petitioners has received compensation amounts (supra), thereby the present petitioners become estopped to claim compensation amount in respect of the subject lands, thus on the principle that the lawful owner of the subject lands, who is their predecessor-in-interest, through receiving compensation in respect of the subject lands, has therebys acquiesced to the valid launchings of the acquisition proceedings. Resultantly, therebys too, the petitioners are bound by the said acquiescence of their predecessor-in-interest.

8. Moreover, a reading of the paragraph no. 6 of the said reply, on affidavit, reveals, that possession over the acquired lands became assumed through rapat No. 248 dated 26.12.2006, and, mutation to this effect was got entered in favour of beneficiary department i.e. PUDA (GMADA).

9. In consequence, since both the above events took place prior to the coming into force of the 'Act of 2013', resultantly, in terms of the verdict recorded by the Hon'ble Apex Court in **Indore Development Authority's case (supra)**, the present petitioners are not entitled to make any espousal before this Court, that a lapsing declaration be made in terms of Section 24(2) of the Act of 2013.

10. Furthermore, since the compensation qua the land as well as the structure has already been disbursed to the recorded land owner Harbhajan Singh (husband of petitioner no. 1), thereby also the petitioners have no *locus standi* to challenge the launched acquisition proceedings, nor they are eligible for the allotment of a residential plot against the acquisition of the land of jumla mushtarka malkan nor they can rest their claim upon the rehabilitation/relocation policy dated 18.02.2014 (Annexure P-10). In sequel, the above made writ claims are declined.

11. The further reason for rejecting the writ claims becomes founded upon the factum that the instant petition, rather being hit by a gross pervasive vice of delay and laches. The reason for making the above conclusion becomes sparked from the factum, that the challenge to the afore, has been made after almost twelve years elapsing, since the launching of acquisition proceedings under the 'Act of 1894'.

Resultantly, the extant petition being hit by the above vice as such, the petition deserves becoming rejected.

12. 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 lawful 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 Sneha 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.

13. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned notification(s), and consequent thereto award are maintained and affirmed.
14. No order as to costs.
15. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

24.04.2024
kavneet singh

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