

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25086-2019

Reserved on: 29.01.2024

Date of Decision : February 19, 2024

JAI KANWAR AND OTHERS

...Petitioners

V/S

THE STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present : Mr. Govind Chauhan, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. Through the instant writ petition the petitioners pray for the quashing of notifications, as became respectively issued, on 24.12.2007, and, on 23.12.2008, Annexures P-19 and P-20, notifications whereof become respectively issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the “Act of 1894”). Moreover, the petitioners also pray that award dated 23.06.2010 (Annexure P-21) be also quashed, and, set aside.

2. The gravamen of the above espousal is rested, upon Annexure P-22, whereby this Court proceeded to make a verdict respectively, upon CWP-12815-2010, and, upon CWP-23150-2010 thus, on 20.05.2011.

3. At the outset the writ reliefs premised on Annexure P-22 are ought to be rejected at the very threshold, but for the reasons assigned hereinafter.

4. The houses of the petitioners exist on the acquired lands. However, the petitioners claim that since the said houses became raised prior to the issuance of a notification under Section 4 of the Act of 1894, therebys when the respondents, thus in terms of the relevant policy rather released from acquisition, the houses of those land-losers which were but similarly situated to the petitioners therein, whereas, the respondents not releasing the houses of the present petitioners, though they were also raised prior to the issuance of a notification under Section 4 of the Act of 1894. Resultantly, it is argued by the learned counsel for the petitioners, that the respondents have practiced discrimination against the present petitioners, through theirs not releasing the houses of the petitioners from acquisition.

5. At the outset, the instant writ petition is hit by the bar of delay and laches, as pointedly arousable from the factum, that despite the acquisitions being launched in the year 2007, yet much belatedly therefrom in the year 2019, the instant petition becoming instituted before this Court. Therefore, since this Court in taking the view that the instant writ petition is hit by the bar of delay and laches, thus, finds support from the judgments rendered by the Hon'ble Apex Court in cases titled as "Star Wire (India) Ltd. V. State of Haryana" reported in (1996) 11 SCC 698, "Municipal Council Ahmednagar V. Shah Hyder Beig" reported in (2002) 2 SCC 48 and "C. Padma V. Dr. Secretary to the Government of Tamil Nadu" reported in (1997) 2 SCC 627, therebys this Court also is fortifyingly led to make an inference that the instant petition is imbued with entrenched vices of delay and laches, and, thereby it requires becoming dismissed.

6. Be that as it may, though no specific ground as such has been

reared in the instant writ petition for the benefit of Section 24(2) of the Right

to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as the “Act of 2013”), becoming bestowed, upon the present petitioners. However, even the said bestowment cannot be made upon the petitioners, especially when it is evident, on a reading of the reply furnished to the writ petition by the respondents, that symbolic possession over the acquired lands, has been assumed by the Acquiring Authority, besides also with a pointed contention becoming raised in the reply instituted to the petition by the respondents, that the compensation determined vis-a-vis the acquired estate is lying with the Land Acquisition Collector, Rohtak, for the same becoming released to the land-losers concerned. Therefore, the above comprised sufficient discharging evidence by the Acquiring Authority vis-a-vis the duo of parameters enunciated in verdict pronounced by the Hon’ble Apex Court rendered in “Indore Development Authority V. Manoharlal and others” (2020) 8 SCC 129, whereby on satisfactory cogent evident becoming adduced by the Acquiring Authority vis-a-vis symbolic possession becoming assumed over the acquired lands by the Acquiring Authority, and, qua the determined compensation also becoming available for being disbursed to the land-losers concerned, thereby the land-losers become barred to derive any leverage from the mandate encapsulated in Section 24(2) of the Act of 2013.

7. Now proceeding to deal with the argument raised by the present petitioners, that when this Court in passing Annexure P-22, upon, its dealing with the claim of the petitioners therein, for their vacant plots being released from acquisition, rather this Court proceeding to make the hereinafter extracted directions, and, that with the petitioners being purportedly at par

with the petitioners in writ petitions (supra), thereby similar thereto

treatment becoming meted to the present petitioners, rather this Court finds that even the above argument cannot be accepted by this Court.

“So far as the petitioner in CWP No.23150 of 2010 is concerned, he is owner of three plots (256 sq. yard x 2 + 128 sq. yard x 1). There is nothing on record to show that in any case, where a land owner owned more than one vacant plot, the same were kept out of acquisition. If that is so, the petitioner cannot claim that his three vacant plots be kept out of acquisition. Learned counsel for the petitioner on getting instructions from his client states that the petitioner-Mohal Lal restricts his claim only with regard to one plot measuring 256 sq. yards, bearing No.58 situated in khasra No.2012.

As per the reasoning given in the earlier part of this judgment, the petitioner in CWP No.23150 of 2010 is also held entitled to the release of one plot as referred to above. It is made clear that if the plot bearing No.58 situated in khasra No.2012 hampers the overall development of rest of the land that in khasra no., the authorities may give a vacant piece of land, measuring 256 sq. yards to the petitioner in khasra No.2012, at any other convenient place having access to it.”

8. The reason for drawing the above inference ensues, from the factum, that a reading of the above extracted paragraphs reveal, that the petitioners therein, had claimed the relief *qua* their vacant plots being released from acquisition, and, which led this Court to permit the petitioners therein to well claim the retentions of their vacant plots, yet with a rider that the said claim becoming restricted to only one plot, besides with a further rider that in case the plot bearing No.58 situated in Khasra No.2012, hampers the overall development of rest of the land, thereupon the authorities may give a vacant piece of land to the petitioners concerned,

measuring 256 sq. yards, at any convenient place having access to it. The petitioners have thereons rather mis-propounded their claim for parity with the petitioners therein, for the reason, that the petitioners therein had claimed release of their vacant plots from acquisition, and, the said releases were yet made with a rider (*supra*), whereas, the petitioners herein claimed release from acquisition of their houses, on the premise, that the said houses were raised prior to the issuance of a notification under Section 4 of the Act of 1894, thereby in terms of the relevant policy, which has been applied favourably by the respondents, vis-a-vis similarly situated land-losers, thereupon the said policy be also likewise applied vis-a-vis the present petitioners.

9. It is but naturally the above apparent *ex facie inter se* distinction that makes the petitioners to not well found their claim for release of their houses, thus through theirs placing reliance on Annexure P-22. Even otherwise, the writ petitions (*supra*), were decided in the year 2011, and, the instant writ petition has been filed in the year 2019, thereupon too, as stated (*supra*), apart from the above distinction *inter se* the facts therein and the facts at hand, rather the present petition is barred by the vice of delay and laches, and, is required to be dismissed.

10. The learned counsel for the petitioners argues very vehemently before this Court, that since the respondent-State released the houses of those land-losers, who were similarly situated along with them, inasmuch as, the respondent-State releasing their houses from acquisition, on the premise, that the said houses were raised over the acquired lands, prior to the issuance of a notification under Section 4 of the Act of 1894, but when the houses of the present petitioners were also raised prior to the issuance of a notification

under Section 4 of the Act of 1894, thereby they also became entitled to become bestowed with the similar thereto benefit.

11. Now alluding to the ground, as relates to not considering the objections, raised under Section 5A of the Act of 1894, it appears that the said ground is laid on a shaky foundation. The reason becomes erected on the evident fact, as revealed from the written statement filed on behalf of the State, that the land owners including the petitioners were given an adequate opportunity of hearing on 12.05.2008, and, after considering the objections and report of Land Acquisition Collector, the State decided to acquire the vacant land of the petitioners. If so, the learned counsel for the petitioners cannot make any argument before this Court, that thereby the objections filed under Section 5-A of the Act of 1894 by the petitioners, being not well considered, especially when they hold no legal consequentiality, especially when they relate to the makings of release(s) of constructions as became purportedly raised over the acquired lands, but post the issuance of a notification under Section 4 of the Act of 1894.

12. Consequently, when on issuance of a notification under Section 4 of the Act of 1894, there is complete divestment of right, title and interest in the land-losers concerned, and, rather there is a concomitant complete vestment of right, title and interest in the Acquiring Authority concerned, over the acquired parcels of the lands of the present petitioners, thereby the present petitioners are to be construed to, continue to trespass over the acquired lands, besides to also impermissibly raise their houses thereons. Necessarily, thus they cannot claim that the said raised houses yet are amenable for becoming released from acquisition. Furthermore, the acquired

and 18-A, Rohtak, Tehsil and District Rohtak, and, if so, thereby this Court is forbidden to tinker with the layout plan, especially when it becomes prepared by the Engineering Cell of the Acquiring Department, besides when thereby the apposite public purpose would become completely subserved.

13. In aftermath, this Court finds no merit in the instant petition, and, is constrained to dismiss the same. Hence, the instant petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

19.02.2024

(LALIT BATRA)
JUDGE

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