
(1984) 11 P&H CK 0043
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3123 of 1984

Harduari Lal and others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 14-11-1984

Acts Referred:

Citation : (1985) PLJ 1 : (1985) RRR 534

Hon'ble Judges : D.S.Tewatia, J and G.C.Mital, J

Advocate : Adish Gupta, Advocate, M.S. Jain, Senior Advocate,, Advocates for appearing Parties

Judgement

G.C Mital and D.S. Tewatia, JJ.

1. The petitioners own land in the revenue estate of Faridabad. For the last time, the Haryana Government issued notification under section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), to acquire 151.50 acres of land vide notification dated 7.12.1976 (Annexure "P3") alongwith the land situated in two other revenue estates. The acquisition included the land of the petitioners as detailed in the writ petition. The Haryana Government issued Notification under section 6 of the Act on 6.12.1979 (Annexure "P4") almost on the conclusion of three years. Till the filing of this writ petition on 19.7.1984 no action had been taken of issuing notices under section 9 of the Act to the claimants for filing the claims, nor award had been given and consequently, the claimants continued to be in possession of the acquired land.

2. In the writ petition, challenge is made to the acquisition on the main ground that the acquisition was made with a view to peg down the prices as on 7.12.1976 and for almost eight years till the filing of this writ petition, no proceedings had been taken to finalise the matter inasmuch as by giving award, paying compensation to the petitioners and of taking possession of the acquired land and, therefore, the acquisition is liable to be struck down as held by a Full Bench of this Court in Radhey Shyam Gupta v. State of Haryana, 1982 PLR 743 : 1984 R.R.R. 493, and a Division Bench of this Court in Ranjit Kaur v. State of

Haryana, 1983 PLJ 164. In reply, the stand of the Government is that the assessment of the properties i.e. of wells, tubewells, buildings, trees etc., is being done by the Technical Authorities of the department and the same is awaited and as soon as it is received, notices under section 9 of the Act, which have been prepared, will be issued very shortly. This reply was filed on 1.9.1984. It was admitted at the time of hearing that till then notices under section 9 of the Act had not been issued, nor any award had been given. On the aforesaid facts, we are of the opinion that the two judgments referred to above, are clearly applicable to the facts of the present case and the acquisition, so far as the petitioners are concerned, deserves to be quashed.

3. The learned Advocate General, Haryana, had strenuously argued that earlier also the petitioners filed C.W.P. No. 5040 of 1981(the correct number being 5044 of 1981) in this Court and the same was dismissed on 6.1.1982 and S.L.P. No. 1406 of 1982, filed by the petitioners, was also dismissed by the highest Court and, therefore, this petition is not competent. The petitioners themselves have stated in para 12 of the writ petition that they had earlier filed C.W.P. No.5044 of 1981, for quashing notifications Annexures "P3" and "P4" in view of the decision of this Court in Man Singh v. State of Punjab, 1980 PLJ 414, on the ground that the State Government did not in fact require the land notification for acquisition proceedings and that the writ petition was dismissed on 6.1.1982 in view of the inordinate delay in filing the same. The written statement filed by the State in that writ petition is Annexure "P6". In para 14 of the writ petition it was further highlighted that the S.L.P. No. 1406 of 1982 was dismissed by the Supreme Court in view of the affidavit filed by the respondents in which it was stated that the acquisition proceedings were in progress and the notice under section 9 of the Act was being issued and it was orally represented on behalf of the Government that the acquisition proceedings would be completed within a month. Copy of the said affidavit is Annexure "P7" and the Special Leave Petition was dismissed on 18.2.1983 in view of the aforesaid affidavit and representation. In para 15 of the writ petition it is pleaded that 21/2 years have elapsed since the dismissal of the previous writ petition, yet no steps have been taken for completing the proceedings and for paying the compensation to the claimants and, therefore, it is a case where eight years have elapsed since the issuance of Notification under section 4 of the Act and the resultant effect is that the acquisition was with a view to peg down the prices of 1976, which would be a colourable exercise of authority and is squarely covered by the decisions referred to in the beginning. In Full Bench decisions of this Court in Radhey Shyam Gupta's case (supra) there was a delay of 9 years since the issuance of Notification under section 4 and the filing of the writ petition by which time the award had not been given. Here also when the second writ petition was filed, almost 8 years had elapsed and the factual position is identical as no award has been given so far. Here the delay is the cause of action for striking down the acquisition. Hence, the dismissal of the previous writ petition on the ground of inordinate delay does not stand in the way of the petitioners to claim relief in

view of the decisions of Full Bench of this Court in Radhey Shyam Gupta's case (supra).

4. In reply, the State has not controverted or disputed the averments contained in para 14 of the writ petition that the Special Leave Petition was dismissed in view of the assurance given by the State before the highest Court for expeditious completion of the acquisition proceedings within one month. Once that representation is also found to be false and remains uncomplished for a period of 17 months till the filing of the writ petition and for 21 months till its decision, the State cannot be allowed to take benefit of its own laches and noncompletion of the acquisition proceedings. It may also be observed that a few writ petitions to challenge the Notifications Annexures "P3" and "P4" have already been allowed by this Court and, therefore, no different view can be taken in this case.

5. For the reasons recorded above, this writ petition is allowed and notifications Annexures "P3" and "P4" are quashed so far as the petitioners are concerned with costs which are quantified as Rs. 500/.