

(2010) 01 P&H CK 0036
In the Punjab And Haryana At Chandigarh

Harwant Singh and Another	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 29-01-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4, 5A, 6

Citation : (2010) 158 PLR 465

Hon'ble Judges : M.M. Kumar, J;Ajay Tewari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The petitioners have approached this Court with a prayer for quashing notification dated 3.1.2007 (P-2), issued u/s 4 of the Land Acquisition Act, 1894 (for brevity "the Act") and declaration u/s 6 of the Act, dated 2.1.2008 (P-5) as well as all other consequential acquisition proceedings.

2. The Government has sought to acquire land for public purpose, namely, for its development and utilisation as residential, commercial, transport and communication area for Sector 1, Taraori. The land in question is to be developed by the Haryana Urban Development Authority under the Haryana Urban Development Authority Act, 1977. After issuance of notification u/s 4 of the Act, the petitioners filed objections u/s 5A of the Act on 4.4.2007, seeking release of their land on the ground that they have constructed residential house, shop, tubewell etc. over the land in question. However, their land has been acquired as is evident from declaration u/s 6 of the Act.

3. We have heard learned Counsel for the petitioners at a considerable length and also perused the paper book with his able assistance. It has been fairly conceded by the learned Counsel that the award in the present case has already been announced on 09.12.2009 and the instant petition has been filed thereafter. There is a catena of judgments of Hon'ble the Supreme Court laying down the principle that no petition would be competent after announcement of award

against the acquisition proceedings. Hon''ble the Supreme Court in para 29 of the judgment rendered in the case of Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others, , has observed as under:

29. It is thus well settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loathe to quash the notifications. The High Court has, no doubt, discretionary powers to quash the notification u/s 4(1) and declaration u/s 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case, is hardly a ground for interference. The Division Bench of High Court was not right in interfering with the discretion exercised by the learned single Judge dismissing the writ petition on the ground of laches.

4. Considering the issue of maintainability of the writ petition after declaration u/s 6 of the Act and passing of the award, Hon''ble the Supreme Court in the case of The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others, , in para 17 has held that after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceeding thereunder. While holding so, their Lordships'' has also noticed the view earlier taken in para 4 of the judgment rendered in the case of C. Padma and Others Vs. Dy. Secretary to the Govt. of T.N. and Others, , which reads thus:

4. The admitted position is that pursuant to the notification published u/s 4(1) of the Land Acquisition Act, 1894 (for short ''the Act'') in GOR No. 1392 Industries, dated 17.10.1962, total extent of 6 acres 41 cents of land in Madhavaram village, Saidapet Taluk, Chengalpatta District in Tamil Nadu was acquired under Chapter VII of the Act for the manufacture of Synthetic Rasiua by Tvl. Reichold Chemicals India Ltd., Madras. The acquisition proceedings had become final and possession of the land was taken on 30.4.1964. Pursuant to the agreement executed by the company, it was handed over to Tvl. Simpson and General Finance Co. which is a subsidiary of Reichold Chemicals India Ltd. It would appear that at a request made by the said company, 66 cents of land out of one acre 37 cents in respect of which the appellants originally had ownership, was transferred in GOMs. No. 816 Industries, dated 24.3.1971 in favour of another subsidiary company, Shri Rama Vilas Service Ltd., the 5th respondent which is also another subsidiary of the company had requested for two acres 75 cents of land; the same came to be assigned on leasehold basis by the Government after resumption in terms of the agreement in GOMs. No. 439 Industries, dated 10.5.1985. In GOMs.No. 546 Industries, dated 30.3.1986, the same came to be approved of. Then the appellants challenged the original GOMs. No. 1392 Industries, dated 17.10.1962 contending that since the original purpose for

which the land was acquired had ceased to be in operation, the appellants are entitled to restitution of the possession taken from them. The learned single Judge and the Division Bench have held that the acquired land having already vested in the State, after receipt of compensation by the predecessor-in-title of the appellants, they have no right to challenge the notification. Thus the writ petition and the writ appeal came to be dismissed.

5. Reliance may also be placed on the judgments of Hon''ble the Supreme Court rendered in the cases of *Star Wire (India) Ltd. Vs. State of Haryana and Others*, ; *Swatika Properties Pvt. Ltd. and Another Vs. State of Rajasthan and Others*, . It is, thus, well settled that no writ petition would be competent after passing of award because possession of land is taken and it is deemed to vest in the State Government. The petitioners would of course be entitled to compensation at the market value prevalent at the time of issuance of notification u/s 4 of the Act in accordance with the award subject to further remedies of reference etc. The petitioners would also be entitled to compensation for the user of the land from the date of possession to the date of notification issued u/s 4. Thus, no ground is made out to accept the contention raised by the petitioners and to quash the acquisition proceedings subject matter of instant petition.

6. In view of above, the writ petition fails and the same is dismissed.

Sd/-

Ajay Tewari, J.