

(2003) 10 SC CK 0044

In the Supreme Court Of India

Case No : Civil Appeal No. 2744 of 2002

Haryana State Handloom and Handicrafts Corporation Ltd.
and Another

APPELLANT

Vs

Jain School Society

RESPONDENT

Date of Decision : 29-10-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 18, 4

Citation : (2004) 1 AWC 171 Supp : (2003) 8 JT 92 : (2004) 1 MLJ 66 : (2004) 136 PLR 466 : (2003) 9 SCALE 39 : (2003) 12 SCC 538 : (2004) 1 UPLBEC 215

Hon'ble Judges : S. N. Variava, J;H. K. Sema, J

Bench : Division Bench

Advocate : Mahabir Singh, Rakesh Dahiya, Nikhil Jain, Praveen Kumar Rai and Neeraj Kumar Jain, for the Appellant; Manoj Swarup and Ajay Kumar, for the Respondent

Final Decision : Allowed

Judgement

S.N. Variava J.

1. This Appeal is against a Judgment of the Punjab and Haryana High Court dated 21st March, 2001.
2. On 29th October, 1976 a Notification u/s 4 read with Section 17 of the Land Acquisition Act was issued. An award came to be passed on 30th September, 1977. Possession of the land was taken and the land vested in the Government on 5th June, 1980.
3. The Respondents filed a reference u/s 18 of the Land Acquisition Act for enhancement of the compensation. They thereafter also filed an appeal in the High Court against the Judgment of the Reference Court.
4. On 2nd February, 1999 the Respondents filed a Writ Petition challenging the acquisition on the ground that the urgency clause could not have been invoked, This Writ Petition has been allowed by the impugned Judgment.

5. It was submitted that the order of the High Court was just and equitable. It was submitted that the Respondents had patiently waited for all these years in order to see whether the land was put to use for the purpose for which it was acquired. It was submitted that merely because the Respondents had given, the State and the acquiring body, time to put the land to use for the purposes for which it was acquired their right to file the Writ Petition could not be affected. We see no substance in this submission. If the Respondents were aggrieved by the fact that the land was not being put to use for the purpose for which it was acquired, even though the Urgency Clause was invoked, they did not need to wait for over 22 years to file the Writ Petition. To be also remembered that the Respondents had filed a Reference u/s 18 as well as an Appeal to the High Court for enhancement of compensation. This, therefore, was not a ground which justified the gross delay and laches in filing the Writ Petition, Mere fact that the land was not put to use for the purpose it was acquired by itself did not justify the delay and laches.

6. It was next submitted that the Respondents did not file the Writ Petition because some other party had challenged the acquisition and got a stay order from a Court of law. It was submitted that the Writ Petition was filed only after that litigation was disposed of. We see no substance in this submission also. That litigation had nothing to do with the Respondents' or the acquisition of the Respondents' land. In the Writ Petition, filed by the Respondents, there is not even a word about those proceedings. The fact of those proceedings only came on record in the reply filed by the State. The State sought to justify, non use of the land for the purpose for which it was acquired, on ground of that litigation. Merely because this fact was mentioned by the State it did be afford Respondents an excuse to justify delay and laches on their part.

7. It was next submitted that even though there were delay and laches on the part of the Respondents they were justified in filing the Writ Petition as the fraud was being played by the State and the acquiring body. It was submitted that the land was sought to be transferred to some other body even though the acquisition was on behalf of Appellants. It was submitted that the Respondents filed the Writ Petition as this fraud came to their knowledge. We see no substance in this contention also. In the Writ Petition there is no ground of fraud. These are also facts which came to light as a result of the reply filed by the State in the Writ Petition. It was the State who mentioned that the Appellants did not have the money to develop the land and that therefore the land was proposed to be transferred to some other party. This would afford no ground for entertaining a Writ Petition which was filed 22 years after the Section 4 Notification had been issued.

8. Recently, in the case of Northern Indian Glass Industries Vs. Jaswant Singh and Others, , this Court considered the question whether a Writ Petition filed after 17 years of issue of a notification u/s 4 could be entertained. This Court has held that such a Writ Petition must not be entertained. It is held that the Writ

Petition must be dismissed on the grounds of delay and laches itself. It is held that mere non payment of enhanced compensation or the fact that the land had not been put to use for the purpose of which it was acquired would be no ground for justifying delay and laches. We are in full agreement with the view expressed therein.

9. In this case, there is absolutely no explanation for the delay and laches of over 22 years, particularly when the Respondents had applied for enhancement of compensation.

10. The only ground given by the High court in justifying delay is as follows:

"Mr. Gupta contends that the petition is belated. We are unable to accept the contention. The respondent is trying to take advantage of its own wrong. The petitioner had waited patiently to see if the respondent would utilize the land. When it found that nothing was being done, the petitioner has approached this Court. The petitioner cannot be accused of any delay so as to disentitle it to the relief. The delay, if any, shows the bonafides of the petitioner."

In our view, this reasoning is entirely unsustainable and erroneous. The Respondents did not need to wait 22 years to see that nothing was being done to utilize the land. The High Court was entirely in error in stating that the Respondents could not be accused of any delay and that the delay in fact showed the bonafides of the Respondents. Further, the High Court seems to have overlooked the fact that the Respondents had applied for enhancement of compensation and had filed a Writ Petition only after those proceedings were over.

11. In our view, the Judgment of the High Court is unsustainable and is accordingly set aside. The Writ Petition filed by the Respondents stands dismissed.

12. Accordingly the Appeal is allowed. The Respondents shall pay to the Appellants costs fixed at Rs. 5,000/-.