
(1995) 12 P&H CK 0056
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2801 of 1986

Kaur Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 06-12-1995

Acts Referred:

Citation : (1996) 1 CurLJ 247 : (1996) 3 LJR 414 : (1996) PLJ 197 : (1996) 1 RRR 624

Hon'ble Judges : V.K.Jhanji, J

Advocate : Rajiv Kataria, Advocate., Advocates for appearing Parties

Judgement

V.K. Jhanji, J.—In this petition, petitioner is seeking a writ in the nature of Certiorari quashing notifications dated 25.10.1961 and 18.5.1962 issued under Sections 4 and 6 respectively, of the Land Acquisition Act.

2. In brief the facts are that on 25.10.1961 notification under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act) was issued for acquisition of land measuring 9.92 acres for public purposes of construction of 66 KV Grid Substation of Dabwali (Village Killianwali). Notification under Section 6 of the Act was issued on 18.5.1962. Challenge to these notifications has been made in the writ petition on the ground that the action of the State in acquiring the land is mala fide and colourable exercise of power. More precisely, it has been averred in the writ petition that the purpose for which the land was acquired was the construction of 66 KV Grid Substation but the same has not been built till date and, therefore, the purpose for which the land was acquired in fact never existed as no construction has been made for that purpose. The other ground taken is that the possession of the land is with the petitioner and the same having not been taken within three years of the issuance of notification under Section 6 of the Act, the acquisition proceedings have lapsed.

3. Learned counsel for the petitioners in support of the grounds taken in the writ petition has cited judgments in Chaman Lal and others v. The State of Punjab and others, 1993(3) P.L.R. 413 and Jagjit Singh and others v. The State of

Punjab and others, 1994(2) RRR 261 (P&H) : 1994(2) P.L.R. 132.

4. Having heard the learned counsel for the parties, I am of the view that the writ petition deserves to be dismissed not only for want of locus standi of the positioner to file the present writ petition but also on the ground of delay and laches. The total land acquired was 79 kanals 9 marlas in which the share of father of the petitioner namely Gura Ditta was 9 kanals 10 marlas. After acquisition, Guru Ditta along with other affected rightholders of the village made statement on 25/10/1962 in proceedings under Section 9 of the Act that possession of the land would be surrendered within one month. On that date, a total compensation of Rs. 3031.31 as awarded was paid. On 23/4/1963 the possession of the entire acquired land including the land of Guru Ditta was taken by the Department through an Overseer and these proceedings are duly signed by Guru Ditta and others. If Guru Ditta has not challenged the proceedings, I fail to understand how the petitioner has the locus standi to challenge the proceedings when he was not even owner of the land which was acquired by the State. Notifications under Sections 4 and 6 of the Act were issued in the year 1962 and 1963 respectively but the present writ petition has been filed on 18/12/1985, i.e. after 22 years of the acquisition. No justification has been given for an inordinate delay in filing the petition. apart from want of locus standi of the petitioner and inordinate delay in filing the writ petition, on merits too the petitioner has no case. The land was not utilised for the purpose for which it was acquired because of reorganisation of States. On reorganisation, 132 KV Grid Sub Station was constructed by the Haryana State Electricity Board nearly 4 kms. away from the land in dispute. It is not the case of the petitioner that at the time the land was acquired, the department of Electricity had no intention to construct 66 KV Grid Sub Station. In Gulam Mustafa and others v. The State of Maharashtra and others, A.I.R. 1977 S.C. 448, the Apex Court has held that "..... once the original acquisition is valid and title has vested in the Municipality, how it uses the excess land is no concern of the original owner land cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long later the requiring authority diverts it to a public purpose other than the one stated in the Section 5(3) declaration."

In Suresh Verma v. The State of Punjab and others, AIR 1971 P&H 406, this Court has held that " Vesting implies the passing of ownership and in the instant case, it passed to the State Government by virtue of Section 17 and did not depend on the making of the award. The State Government, thus, become owner of the property and it was open to it subsequently to use it for any purpose it liked so long as it could not be shown that all this was being done for extraneous reasons or that the resort to the urgency provision and the abrogation of normal procedure was mala fide. "Thus it stands settled that once the original acquisition is held valid, the diversion of the land to a purpose other than the one stated in the declaration under Section 6 of the Act would not make the acquisition bad. It is provided under Section 16 of the Act that vesting of land in the Government

takes place when : (i) the Collector makes the award; and (ii) making of award is followed by actual possession taken under Section 11. In the instant case not only the award was made but compensation too was paid and possession taken on 23/4/1963. Petitioner who happens to be son of the original owner himself applied to the Chairman, P.S.E.B., for taking land on lease. Petitioner has annexed this application as Annexure P6 vide which he sought permission of the Board to take land on lease by stating that due to reorganisation of States, scheme of installation of Bigger sub station has been postponed and the land is lying vacant and therefore the land be leased out to him till the department raised any sort of construction thereon. Admittedly, land was not leased out to the petitioner, but it appears that he came into unauthorised possession and has remained successful in keeping possession because of statusquo order which was passed by this Court at the time of motion hearing. The petitioner who has come into possession unauthorisedly, being guilty of wilful wrong cannot maintain this petition.

For the reasons recorded above this writ petition fails and is accordingly dismissed.