
(1991) 01 P&H CK 0078

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 602 of 1983

Nathu Ram and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 15-01-1991

Acts Referred:

Citation : (1991) 2 CurLJ 127 : (1992) 2 LJR 55 : (1991) PLJ 285 : (1991) 2 RRR 217

Hon'ble Judges : J.V.Gupta;CJ., J and R.S.Mongia, J

Advocate : Shri S.K. Goel, Advocate, Shri U.D. Gaur, Senior Advocate,
Advocates for appearing Parties

Judgement

R.S. Mongia, J.

1. This Letters Patent Appeal is directed against the order of the learned Single Judge whereby the writ petition was dismissed both on merits as well as on the ground that it suffers from laches as the writ petition was filed with inordinate delay of atleast 25 years. In the writ petition the challenge was to the notification Annexure P7 issued under Section 42(1) of the Punjab Town Improvement Act and also to the vires of Section 6 of the Punjab Requisitioning of Immoveable Property (Amendment and Validation) Act, 1951. A preliminary objection was raised in the return on behalf of the respondents that the writ petition suffers from laches and was therefore liable to be dismissed on this ground alone. It was asserted in the return that the requisitioning having been completed sometime in the year 1949 the petitioners should not be permitted to set at naught the same after a lapse of almost 25 years. According to learned counsel for the petitioners the cause of action arose to them in the year 1974, when the Staterespondent denied the transfer of land to the petitioners though they were prepared to pay the same value per yard as the Improvement Trust had agreed to pay to them. This contention was repelled by the learned Single Judge on the ground that the cause of action had arisen to the petitioners in the year 1949 and not in the year 1974. Moreover the petitioner had been adequately compensated to their full

satisfaction and they delivered the possession of the land to the Government. They did not then raise even their little finger against the acquisition proceedings. They were in possession of the suit land not as owner but as lessees under the respondents since the year 1967, whereas the writ petition was filed in the year 1974.

2. Learned counsel for the appellants submitted that since the acquisition itself was void ab initio as under the Act under which land was requisitioned i.e. Punjab Requisitioning of Immoveable Property (Temporary Powers) Act, 1947 which was itself declared ultra vires vide judgment of this Court reported as *Shyam Krishan v. State of Punjab*, A.I.R. 1952 Punjab 70 the question of laches, as such, did not arise. Such an action could be challenged any time being without jurisdiction. In support of his contention he referred to *Kiran Singh v. Chaman Paswan*, A.I.R. 1954 S.C. 340; *Sunder Dass v. Ram Parkash*, A.I.R. 1977 S.C. 1201, and *Mahadeo Prasad Singh v. Ram Lochan*, A.I.R. 1981 S.C. 416. He further submitted that the subsequent Act No. II of 1951 validating the acquisition under the Act declared to be ultra vires was also liable to be struck down. Thus, argued the learned counsel, the whole acquisition being void ab initio, the question of limitation in challenging the same by way writ petition did not arise. On the other hand the learned counsel for the respondents submitted that since the challenge to the notification was made after more than 25 years, the writ petition has been rightly dismissed by the learned Single Judge. Reliance was made to *Babu Singh v. Union of India*, A.I.R. 1979 S.C. 1713.

3. After hearing the counsel for the parties, we are of the considered view that the writ petition suffers from laches and, therefore, it was rightly dismissed by the learned Single Judge though the merits of the writ petition were also discussed and were found against the petitioners. The contention of the learned counsel for the appellants that since the petitioners were in possession of the land in dispute, they could challenge the acquisition any time unless they were dispossessed has no merit. Admittedly, the petitioners are in possession of the suit land as lessees under the respondents and not as owners. According to them the lease was created in the year 1967. Even then, the writ petition filed in 1974 was belated one. Viewed from any angle the writ petition was rightly dismissed because of laches and we do not find any illegality therein as to interfere in Letters Patent Appeal. Consequently, the appeal fails and is dismissed with costs.