
(1988) 05 P&H CK 0019
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2100 of 1986

Ranjit Singh Sethi and others	Vs	APPELLANT
State of Punjab and others		RESPONDENT

Date of Decision : 02-05-1988

Acts Referred:

Punjab Town Improvement Act, 1922 — Section 36

Citation : (1988) 05 P&H CK 0019

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : M.L. Sarin, with Miss Jaishree Thakur and Miss Ritu Bahri, for the Appellant; K.P. Bhandari, A.G. Punjab with Mr. D.N. Rampal for Respondent Nos. 1 and 3 and Mr. K.K. Cuccria, for the Respondent

Final Decision : Allowed

Judgement

J.V. Gupta, J.—One Santosh Kumari was the original owner of the land in dispute, which was acquired by the Improvement Trust, Faridkot, for implementing a development scheme. Notification u/s 36 of the Punjab Town Improvement Act was issued on 4th July, 1975 vide Annexure P-1/A, whereas notification u/s 42(1) of the said Act is dated 11th May, 1976, a copy of which is Annexure P-2, Annexure P3 is a copy of the instructions issued by the Joint Secretary to Government, Punjab, Revenue Department to all the Deputy Commissioners in the State of Punjab, wherein it was provided:

The Governor of Punjab is pleased to reduce the limit of 3 years laid down in proviso u/s 66(1) of the Land Acquisition Act, 1894 regarding the issue of Notification u/s 6 ibid to one year. If the possession of land is not taken within one year after the Issue of Notification u/s 6, the same would be deemed to have lapsed.

The petitioners are seeking relief in this writ petition in view, of the said letter issued by the State Government, the effect of which, according to them, is that

the notification issued u/s 42 of dated 11th May, 1976 (copy Annexure P-2) will be deemed to have lapsed as no possession was taken within one year of that notification. However, the award was announced on 31st March, 1983, Notice for taking possession from the petitioners was issued on 11th April, 1986 for 30th April, 1986. On the receipt of the said notice (Copy Annexure P5), the petitioners immediately filed this writ petition on 20th April, 1986 and obtained stay orders with regard to their dispossession. The material averments on which argument has been raised in this petition are contained in para 3 of the writ petition, which reads as under:-

That respondent No. 1 on 28.12.1979 issued a notification whereby the time limit prescribed u/s 6(1) of the Land Acquisition Act (which corresponds to Section 42 of the Act) was reduced from 3 to 1 years. It was further declared that if possession of the land was not taken within one year of issuance of the notification u/s 6 of the Land Acquisition Act, the same would be deemed to have lapsed. The land of the petitioners of which the possession continues to be with the petitioners, stood released from acquisition.

In para 7(ii) and (iii) again it has been stated that Notifications Annexure P-1, P-1/A and P-2 stood lapsed on the issuance of the notification Annexure P-3, as possession was not taken from the petitioners within one year of the issuance of notification Annexure P-2. In any case, according to the petitioners, the decision contained in Annexure P3 amounts to the withdrawal of the Government from the acquisition in question u/s 48 of the Land Acquisition Act. There is no procedure or form prescribed for withdrawal from the acquisition. Even otherwise by virtue of the provisions of Section 21 of General Clauses Act the respondents are competent to cancel or withdraw from the acquisition.

2. In the return filed on behalf of the Improvement Trust, reply to para 3 of the writ petition reads as under:-

That contents of para No. 3 of the writ petition are not admitted to be correct. A special procedure under sections 36, 38 and 42 of the Town Improvement Trust Act, is prescribed and, therefore, any notification or directions issued by the Governor have no applicability to the proceedings taken u/s 6 of the Land Acquisition Act. Therefore, Annexure P-3 has no applicability.

As regards the grounds taken by the petitioners, it was stated in reply to sub-paras (ii) and (iii) of para 7 that the contents of these sub-paras were incorrect and hence denied. However, one of the preliminary objections raised in they return was that the petitioners had no locus standi to file this petition because they purchased the land in dispute from its original owner Smt. Santosh Kumari on 17th September, 1984, whereas by that time even the award had been announced on 31st March, 1983.

3. In order to meet the preliminary objections learned counsel for the petitioners relied upon a Full Bench judgment of this Court reported as *Radhey Sham Gupta v. State of Haryana* (1982) 84 P.L.R. 743 (F.B.) wherein similar objections were

raised and were repelled with the following observations made in para 6 thereof:-

.....It would thus be manifest that merely because the petitioner purchased the land after the notification, they are in no way put on a pedestal lower than their predecessor-in-interest. Mr. M.S. Jain, the learned counsel for the petitioners had rightly relied on the recent pronouncements of the final Court exhibiting a clear trend against a narrow and technical view about locus standi. Apart from this, it was highlighted on behalf of petitioners that herein the continued non-action on the part of the respondent-State for well-nigh nine years had rightly led the earlier owner Shri Jaswant Rai to believe that the land was no longer required for acquisition and stood tacitly released therefrom. Equally, the petitioners were thereby induced bona fide to accept this position and make purchases in August, 1980.....

In view of the said judgment of the Full Bench, there is no substance in the preliminary objection. It is no more disputed in this petition that the possession was not taken by the Improvement Trust after the award was given on 31st March, 1983. Notice was issued for the first time for possession on 11th April, 1986 vide copy Annexure P-5. As soon as the notice was issued, the petitioners filed the present writ petition on 20th April, 1986 and obtained the orders staying their dispossession. Once it is found that the possession remained with the petitioners in spite of the award having been made on 31st March, 1983, the petitioners are very much within their rights to claim benefits under the instructions issued vide letter Annexure P-3. Since the said letter was issued and the possession was not taken by the Improvement Trust within one year of the notification u/s 42, the same would be deemed to have lapsed. It was so held by this Court in Parkash Singh v. State of Punjab and another 1983 P.L.J. 259, that if the possession of the land had not been taken in pursuance of the award and continued with the owner, the land did not vest with the acquiring authority and the Government was at full liberty to withdraw or abandon acquisition proceedings. The same view was again reiterated by this Court in Iqbal Singh Gill and others v. State of Punjab (1988-1) 93 P.L.R. 575. There also since the possession was not taken by the Improvement Trust in spite of the award, the proceedings were deemed to have abandoned in view of the instructions vide Annexure P-3. No meaningful argument could be raised on behalf of the respondents in view of the judgments referred to above. The only argument raised was that the writ petition was filed after a great delay and that too by the persons who had no locus standi to file the same. In view of the above, the objections have no substance as in the present case the acquisition proceedings will be deemed to have lapsed in view of the letter Annexure P-3.

4. Consequently, this petition succeeds and is allowed. It is held that the lands of the petitioners are no more subject to the acquisition proceedings and the same stand abandoned or withdrawn. However, there will be no order as to costs.