(2014) 10 P&H CK 0074

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition Nos. 3908 of 2013 and 3108 of 2014

Ravi Dutt and Others APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 17-10-2014

Acts Referred:

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

Citation : (2015) 177 PLR 626

Hon'ble Judges : Ashutosh Mohunta, Acting C.J.;Anupinder Singh Grewal, J

Bench : Division Bench

Advocate : G.S. Bhatia, Advocates for the Appellant; J.S. Puri, Additional Advocate General, Advocates for the Respondent

Judgement

Anupinder Singh Grewal, J.—This order shall dispose of two writ petitions bearing CWP No. 3908 of 2013 titled ''Ravi Dutt and others v. State of Punjab and others, and CWP No. 3108 of 2013 titled ''Dharam Singh v. State of Punjab and others'', since common question of facts and law are involved in the same. For the sake of convenience, the facts are being taken from CWP No. 3908 of 2013. The petitioners are seeking mandamus for directing the respondents to cancel the allotment made in the favour of respondent No. 5 and to restore the possession of the unutilized land of the petitioner to him. The petitioner has stated that he had owned land description of which is as under:-

"(i) Land 37 Kanal 4 Marlas (which is 2/3 share of total land area 55 Kanal 16 Marla) was owned by petitioners Hukam Singh and Gurdev Singh, comprising in Khasra No. 3/17, 22, 23, 24, 25, 4//2, 5/1, 6/2, 34/1 of village Kumbra Had Bast No. 6, Tehsil Kharar, now Mohali.

(ii) Land measuring 1 Kanal 5 Maria land 1/2 share khasra No. 6/6, 7/1 total 10-4 was owned by petitioner Ravi Dutt son of Shambu Ram."

2. Total land measuring 400.40 acres including the petitioners land was acquired

vide notification under Section 4 of the Land Acquisition Act dated 10.12.1973 (Annexure P-1) for setting up residential Urban Estate. The award determining compensation of the acquired land was passed on 27.02.1975. 9.60 acres of land was put to open auction on 08.02.2008 (Annexure P-3) and sold to respondent No. 5.

3. Short affidavit has been filed on behalf of GAMADA respondent No. 3 and written statement has been filed on behalf of respondent No. 5 wherein it is stated that the land was sold to respondent No. 5 in an open auction for an amount of Rs. 4,64,75,61,600/- after the acquisition proceedings were long over. Respondent No. 5 is a statutory corporate body established under an Act of Parliament for the Life Insurance Corporation Act, 1956. The entire amount has been paid in the year 2008 and conveyance deed was also executed by respondent No. 3 in favour of respondent No. 5 on 15.09.2010.

4. We have heard learned counsel for the parties.

5. The land in the instant case was acquired way back in year 1973 and the award was also passed in the year 1975. Out of total land of 400.40 acres only an area of 9.60 acres was put to open auction and purchased by respondent No. 5. The length of delay is very significant as the acquisition proceedings were completed about 40 years ago and the land measuring 9.60 acres was sold in 2008, the petitioners have approached this Hon''ble Court in the year 2013. There is no explanation whatsoever about the delay in preferring the petition. Entertaining such a petition at this stage would amount to putting premium on dilatory tactics. Therefore, it is difficult to accept the claim of the petitioners at this highly belated stage.

6. Further, the counsel for the petitioner has placed heavy reliance on the judgment of Hon''ble Supreme Court of India in Royal Orchid Hotels Limited and Another Vs. G. Jayarama Reddy and Others, , wherein it has been held that where there is a flagrant violation of the settled position in law coupled with the provisions of the Land Acquisition Act, the delay would never come in the way of the litigant to challenge the action of the respondent and land is not utilized for the purpose for which it is acquired, the authorities are required to order status quo ante and restore the land to the land owners. Reliance of the learned counsel for the petitioner on the judgment of the Supreme Court in M/s. Royal Orchid''s case (supra) is misplaced inasmuch as in that case the land after acquisition for a public purpose for the tourism corporation was transferred to private persons for house building project which was held to be fraudulent exercise of power by the state. In the instant case the land has been sold by way of public auction to Life Insurance Corporation of India which is a public sector undertaking and statutory corporate body established under the Act of Parliament called the Life Insurance Corporation Act, 1956. LIC could not be in any manner be placed at par with private persons.

7. Moreover, the land was acquired for 400.40 acres wherein urban estate has

been set up and only 9.60 acres of land remained which was sold by way of public auction for Rs. 465 crores. Auction of the sale of land by way of public auction in favour of respondent No. 5 Life Insurance Corporation cannot be faulted. Reference may be made to the decision of the Hon''ble Supreme Court of India in Leela Wanti and Others Vs. State of Haryana and Others, wherein it has been held that whenever a land is acquired for a particular purpose and some part of it is lying abandoned after the purpose was achieved, the State Government is not under an obligation to return the acquired land to the owners after the purpose of acquisition is accomplished. In Mahadeo (D) through L.Rs. and Others Vs. State of U.P. and Others, it has been held that once the land is acquired and mandatory requirements are complied with including possession having been taken, the land vests in the State Government free from all encumbrances. Even if some unutilized land remains, it cannot be reconvened or reassigned to the erstwhile owner by invoking the provisions of the Land Acquisition Act. There is no denying the fact that the land in question had been acquired by the State Government for setting up of urban estate way-back in 1973. Only part of the land which was left out has been sold by public auction to respondent No. 5. Public auction is one of the most preferable and probably the best method for alienation of public land. It not only ensures transparency but also fetches the best price for the land.

8. Learned counsel for the petitioner then contended that the Government of India has framed the National Rehabilitation and Resettlement Policy of 2007 under which the affected families, whose land has been acquired, are entitled to resettlement and rehabilitation. However, the petitioner cannot derive any benefit from the policy of 2007 as instant acquisition was completed about four decades ago. Thus, the National Rehabilitation and Resettlement Policy 2007 would not be applicable to the petitioners.

9. Therefore, there is absolutely no basis in the claim of the petitioners that auction be cancelled and the possession of the land be restored to them. The action of the respondents in selling a part of land to respondent No. 5 by way of an open auction cannot in any manner be termed to be arbitrary, illegal or unreasonable warranting any interference by us under Article 226 of the Constitution of India. Hence, for the afore-stated reasons, the petitions are dismissed.