A SAWARAN LATA ETC.

v.

STATE OF HARYANA & ORS.

(Special Leave Petition (Civil) Nos. 11023-11026/2010)

APRIL 01, 2010

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[J.M. PANCHAL AND DR. B.S. CHAUHAN, JJ.]

Land Acquisition Act, 1894 – ss. 4 and 6 – Land acquisition proceedings – Challenge to, at belated stage – C *Land acquisition proceedings in respect of huge chunk of land – Notification u/s. 4 and declaration u/s. 6 – Publication in newspapers – Award by Land Acquisition Collector – Possession taken by State – Writ petition seeking quashing of land acquisition proceedings – Dismissed on the ground* D *of delay – Review petition also dismissed on the ground of delay – On appeal, held: Notification u/s. 4 should be challenged within a reasonable period – Petition challenging the same is liable to be dismissed if it is challenged at a belated stage – On facts, not the case of the land owners that* E *they were not aware of acquisition proceedings – Very huge chunk of land belonging to large number of tenure holders had been notified for acquisition – Order of courts below not called for interference – SLPs having been filed with an inordinate delay of 172 days, dismissed – Limitation – Delay/* F *laches.*

Hari Singh & Ors. vs. State of U.P. **AIR 1984 SC 1020;** *Aflatoon & Ors. vs. Lt. Governor, Delhi & Ors.* **AIR 1974 SC 2077;** *State of Mysore vs. V.K. Kangan* **AIR 1975 SC 2190;** *PT. Girdharan Prasad Missir vs. State of Bihar* **(1980) 2 SCC** G **83;** *Bhoop Singh vs. Union of India* **AIR 1992 SC 1414;** *State of Orissa vs. Dhobei Sethi & Anr.* **(1995) 5 SCC 583;** *State of Maharashtra vs. Digambar* **AIR 1995 SC 1991;** *State of Tamil Nadu vs. L. Krishnan* **AIR 1996 SC 497;** ***C.*** *Padma & Ors. vs. Dy. Secretary to Govt. of Tamil Nadu & Ors.* **(1997) 2**

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SCC 627; *Municipal Corporation of Greater Bombay vs. Industrial Development Investment Co. Pvt. Ltd. & Ors.* **AIR 1997 SC 482;** *State of Rajasthan & Ors. vs. D.R. Laxmi & Ors.* **(1996) 6 SCC 445;** *Northern Indian Glass Industries vs. Jaswant Singh & Ors.* **AIR 2003 SC 234;** *Haryana State Handloom & Handicrafts Corporation Ltd. vs. Jain School Society* **AIR 2004 SC 850, relied on.**

Case Law Reference:

AIR 1984 SC 1020	**Relied on.**	**Para 6**
AIR 1974 SC 2077	**Relied on.**	**Para 7**
AIR 1975 SC 2190	**Relied on.**	**Para 8**
(1980) 2 SCC 83	**Relied on.**	**Para 8**
AIR 1992 SC 1414	**Relied on.**	**Para 8**
(1995) 5 SCC 583	**Relied on.**	**Para 8**
AIR 1995 SC 1991	**Relied on.**	**Para 8**
AIR 1996 SC 497	**Relied on.**	**Para 8**
(1997) 2 SCC 627	**Relied on.**	**Para 8**
AIR 1997 SC 482	**Relied on.**	**Para 9**
(1996) 6 SCC 445	**Relied on.**	**Para 10**
AIR 2003 SC 234	**Relied on.**	**Para 11**
AIR 2004 SC 850	**Relied on.**	**Para 11**

CIVIL APPELLATE JURISDICTION : SLP (Civil) No. 11023-11026 of 2009.

From the Judgment & Orders dated 30.5.2009, 25.9.2009 of the High Court of Punjab & Haryana at Chandigarh in Civil Writ Petition No. 8794, RP 337 in CWP 8794 of 2009, Civil Writ Petition No. 8761 of 2009, RP No. 338 in CWP 8761 of 2009.

A Dinesh Verma, Rajat Sharma, R.V. Kameshwaran for the Petitioners.

The Order of the Court was delivered by

ORDER

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DR. B.S. CHAUHAN, J. 1. These special leave petitions reveal a very sorry state of affair and make it evident that litigants are eager to abuse the process of the Court, having no idea for the law of limitation/delay and laches.

C 2. These special leave petitions have been filed against the judgment and order of the Punjab and Haryana High Court dated 30.5.2009 by which the Civil Writ Petition Nos.8794 of 2009 and 8761 of 2009 have been dismissed only on the ground of delay. The Review Petitions were filed which were D also time barred by 48 days. The same stood dismissed vide order dated 25.9.2009. These special leave petitions have been filed with an inordinate delay of 172 days. Petitioners sought relief of quashing the land acquisition proceedings in respect of which the award had been made under Section 11 E of the Land Acquisition Act, 1894 (hereinafter called as "Act 1894") on 27.4.2004.

3. The facts and circumstances giving rise to these petitions are that the respondent - State of Haryana issued a notification under Section 4 of Act 1894 in respect of a huge F chunk of land including some land of the petitioners on 2nd May, 2001. Substance of the said notification was published in two newspapers on 5.5.2001. The respondents issued a declaration under Section 6 of Act 1894 on 30.4.2002 and the substance thereof was also published in local newspapers immediately G thereafter. The Land Acquisition Collector made an award on 27.4.2004 and in pursuance thereof, the respondents took possession of the land and removed the trees from the land of the petitioners.

4. Petitioners approached the High Court by filing Writ H

Petition Nos. 8794/2009 and 8761/2009 on 28.5.2009 praying for quashing the notification dated 2.5.2001 under Section 4 and declaration dated 30.4.2002 under Section 6 of Act 1894. The High Court dismissed both the petitions on the ground of delay observing that the award under Section 11 of Act 1894 had already been made on 27.4.2004. Being aggrieved, petitioners filed Review Petitions with 48 days' delay which have also been dismissed vide order dated 25.9.2009. These petitions have been filed with 172 days' delay. There is further delay of 37 days' in re-filing of the same.

5. The issue involved in these petitions is as to whether the acquisition proceedings can be challenged at a belated stage. The issue is no more *res integra* as the issue has been considered by this Court time and again.

6. When a person challenges Section 4 Notification on any ground, it should be challenged within a reasonable period, and if the acquisition is challenged at a belated stage, the petition deserves to be dismissed only on this count. (Vide *Hari Singh & Ors. Vs. State of U.P.,* AIR 1984 SC 1020).

7. A Constitution Bench of this Court, in *Aflatoon & Ors. Vs. Lt. Governor, Delhi & Ors.* AIR 1974 SC 2077, while dealing with the issue, observed as under:–

> ".... to have sat on the fence and allowed the government to complete the acquisition on the basis that notification under Section 4 and the declaration under Section 6 were valid and then to attack the notification on the grounds which were available to them at the time when the notification was published, would be putting a premium of dilatory tactics. The writ petitions are liable to be dismissed on the ground of laches and delay on the part of the petitioner."

8. Same view has been reiterated by this Court observing that acquisition proceedings should be challenged before the same attain finality, in *State of Mysore Vs. V.K. Kangan* AIR

A 1975 SC 2190; *PT. Girdharan Prasad Missir Vs. State of Bihar* (1980) 2 SCC 83; *Bhoop Singh Vs. Union of India* AIR 1992 SC 1414; *State of Orissa Vs. Dhobei Sethi & Anr.* (1995) 5 SCC 583; *State of Maharashtra Vs. Digambar* AIR 1995 SC 1991; *State of Tamil Nadu Vs. L. Krishnan* AIR 1996 SC 497; B and *C. Padma & Ors. Vs. Dy. Secretary to Govt. of Tamil Nadu & Ors.* (1997) 2 SCC 627.

9. In *Municipal Corporation of Greater Bombay Vs. Industrial Development Investment Co. Pvt. Ltd. & Ors.* AIR 1997 SC 482, this Court observed as under:–

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> "If the interested person allows the grass to grow under his feet by allowing the acquisition proceedings to go on and reach its terminus in the award and possession is taken in furtherance thereof and vest in the State free from all encumbrances, the *slumbered interested person* D *would be told off the gates of the Court that his grievance should not be entertained when there is inordinate delay in filing the writ petition* and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. (Emphasis E added)

10. Similar view has been reiterated in *State of Rajasthan & Ors. Vs. D.R. Laxmi & Ors.*, (1996) 6 SCC 445, wherein this Court has held that even the void proceedings need not be set F at naught if the party has not approached the Court within reasonable time, as judicial review is not permissible at a belated stage. This Court held as under:

> ".....Delay in challenging the notification was fatal and writ petition entails with dismissal on grounds of laches. It is G thus, well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loathe to quash the notifications.....*The order or action, if ultra vires the power, becomes void and it* H *does not confer any right. But the action need not*

necessarily be set at naught in all events. Though the order may be void, if the party does not approach the Court within reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner. When the discretion has been conferred on the Court, the Court may in appropriate case decline to grant the relief, even if it holds that the order was void. The net result is that extraordinary jurisdiction of the Court may not be exercised in such circumstances." (Emphasis Added)

11. Similar view has been reiterated by this Court in *Northern Indian Glass Industries Vs. Jaswant Singh & Ors.* AIR 2003 SC 234; and *Haryana State Handloom & Handicrafts Corporation Ltd. Vs. Jain School Society* AIR 2004 SC 850.

12. In the instant case, it is not the case of the petitioners that they had not been aware of acquisition proceedings as the only ground taken in the writ petition has been that substance of the notification under Section 4 and declaration under Section 6 of Act 1894 had been published in the newspapers having no wide circulation. Even if, the submission made by the petitioners is accepted, it cannot be presumed that they could not be aware of acquisition proceedings for the reason that very huge chunk of land belonging to large number of tenure holders had been notified for acquisition. Therefore, it should have been a talk of the town. Thus, it cannot be presumed that petitioners could not have knowledge of the acquisition proceedings.

13. In such circumstances, we do not find any fault with the impugned judgment and order. The petitions are dismissed on the ground of delay.

N.J. Petitions dismissed.