



CWP No. 11457 of 2024

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2024:PHHC:077613-DB

**In the High Court of Punjab and Haryana at Chandigarh****CWP No. 11457 of 2024
Date of Decision: 30.5.2024**

Ashok Kumar Bansal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**Present: Mr. Rajesh Bansal, Advocate
for the petitioner.Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. Through the issuance of notification dated 2.8.1976 under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act of 1894'), which became succeeded by a declaration issued under Section 6 of the Act on 24.6.1977, and, through consequent thereto award becoming made on 24.1.1978, thereby the subject lands became acquired.

2. The acquisition proceedings (supra), as became launched in respect of the subject lands brought grievance to the land losers concerned, and, one of them instituted CWP No. 2120 of 1990 before this Court, whereby a challenge was made to the notifications (supra), and, to the consequent thereto award.

3. On the said writ petition, the order dated 7.2.1991 (Annexure P-4) became passed by this Court. The contents of Annexure P-4 are extracted hereinafter.

“The learned counsel for the petitioner states that land was acquired for the purpose of developmental of a mandi. After the development of the mandi, some land has been left over as unutilized. The petitioner has made a representation to the State



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Government for the release of the said land. We hope that the respondents will consider the representation of the petitioner compassionately. There are no ground to interfere in this petition.

4. A reading of the above extracted contents reveals, that on the submissions made by the learned counsel for the petitioner, that there has been a change in the public purpose stated in the acquisition notifications, inasmuch as, it was stated therein that the land was acquired for purpose of development of a mandi, and, the said public purpose has not been executed, at the subject sites, thereupon on the learned counsel stating that the petitioner had made a representation before the competent authority concerned, for the release of the subject lands, thus this Court made a direction, upon the respondents concerned, to consider the validity of the said representation, therebys the said writ petition was closed.

5. However, there is no order, as such, as became passed by the competent authority concerned, on the said representation, nor also the petitioner instituted any contempt petition before this Court for contempt actions being drawn against the respondent concerned, arising from omission on his part to pass a speaking order on the representation (supra), as became preferred for purpose (supra) before the competent authority. Resultantly, therebys it appears, that the petitioner waived the grounds, as became raised in the representation, besides it prima facie appears, that he also did not make any representation, as such, nor there was any occasion as such, for the respondents concerned, to pass any speaking order thereovers.

6. Be that as it may, the successors-in-interest of the petitioner in writ petition (supra) instituted CWP No. 497 of 2012, before this Court, on the grounds similar to the ones, as became raised in the earlier writ petition, and, on the said writ petition, in the operative part thereof, operative part whereof becomes extracted hereinafter, the writ petition became declared to suffer from



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the vice of delay and latches. In sequel, the said writ petition also became dismissed on 9.1.2012 (Annexure P-9)

“In the present case, the land has been transferred to respondent No. 5 for playground of a school. The playground of a school satisfies the test of a public purpose as well. Still further, the earlier writ petition filed by the petitioner claiming almost the same relief stands dismissed in the year 1991. The present writ petition filed after 21 years of the transfer of land to the private respondents suffers from delay and latches as well. There is no explanation of the delay nor has the petitioner availed the remedy against the orders passed in the year 1991.

Consequently, we do not find any merit in the present petition.

Dismissed.”

7. The reasons, as set-forth in the order passed by this Court, upon the writ petition (supra), apart from this Court declaring the said writ petition to be ridden with vice of unexplained delay and latches, thus was also that the subject lands subserving as a playground for the school children, and, that thereby if there was some changes in the stated public purpose in respect of the subject lands becoming acquired for constructing thereons of a mandi, whereas, the school ground for facilitating the school children to undertake sporting activities thereovers, became executed on the subject lands. Nonetheless, this Court did not even accept the said change in user of the subject lands.

8. It appears, that subsequently, since a school building has been raised on the playground, that therebys the petitioner becomes aggrieved. Therefore, on the above ground, he made a representation (Annexure P-10) before the competent authority concerned, wherebys on the said ground of change of user of the subject lands as a playground to a school building becoming raised thereovers that the present petitioner asks that an order of release of the subject lands be passed.

9. However, even the said ground cannot be well canvassed by the



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petitioner before this Court thus as a sound, and, tangible premise for this Court becoming constrained to make an order of release of the subject lands. The reason is but trite, and, simple, that since even a building subserves the educational pursuits of the school going children, thereupon, concomitantly public good, and, public purpose but becomes subserved. Resultantly, this Court does not find that the raising of a school building on the subject land, is a valid ground for this Court directing the respondents concerned, to consider the release of the subject lands from acquisition.

10. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed with costs of Rs. 25,000/- upon, the petitioner to be forthwith deposited by him with the 'Treasurer of the Punjab and Haryana High Court Bar Association, Chandigarh'. The impugned notifications, and, award are maintained and affirmed.

10. Accordingly, the instant petition is dismissed.

11. Pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

May 30, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No