

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.**

**CWP-26270-2019**

**Reserved on: 16.01.2024**

**Pronounced on: 31.01.2024**

M/S VISHAV SEWING MACHINE INDUSTRIES PVT. LTD.

.....Petitioner

Versus

STATE OF PUNJAB AND ORS.

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE HARSH BUNGER**

Argued by: Mr. Shailendra Jain, Sr. Advocate with  
Mr. Karan Gupta, Advocate  
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

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**SURESHWAR THAKUR, J.**

1. Through the instant writ petition, a challenge is made to the order (Annexure P-1), as passed by the Principal Secretary to Govt. of Punjab, Department of Industries and Commerce, whereby in terms of a decision made by this Court, upon, CWP bearing No. 12874-1989, the order (supra) has been passed.

2. The said writ petition was directed against Annexure P-13, drawn on 10.06.1988, whereby a decision was taken by the respondent concerned, for handing over the subject lands, to the Deputy Commissioner Patiala, for its disposal under the provisions contained, in paragraph No. 493/495 of Financial Commissioner's standing order No.28. The said provisions are extracted hereinafter.

*department of the Punjab Government is no longer required, it should be handed over to the Deputy Commissioner of the district, who becomes responsible for the disposal of it under the orders of the Commissioner. It may not, however, be permanently alienated without the previous sanction of Government. There is no legal bar to its being put to auction. But, as a matter of grace, Government is usually willing to restore agricultural and pastoral land to the persons from whom it acquired it or to their heirs on their refunding the amount paid as compensation less than 15 per cent granted for compulsory acquisition. The price may be lowered, if necessary, on account of deterioration or enhanced in the rare case of land having been improved by the use to which Government has put it. The improvement must be one affecting the quality of the land. The fact that land which was unirrigated at the time of acquisition can, when relinquished, be watered by a canal is not an improvement of this sort. Considering how great the rise in the market value of land has been, the terms stated above are very liberal. It is not necessary to adopt them in their entirety where the persons concerned are remote descendants or relations of the original holders. And where the circumstances of the case are at all out of the common, when, for example no price or merely a nominal price, was paid to the owner in the first instance, or when the rise in the value of land in the neighbourhood has been exceptionally large, these facts should be pointed out when referring such cases for orders so that Government may have sufficient material before it to decide whether to offer any special terms to the heirs of the persons from whom that land was acquired. In the case of rendition of land under "Kassies" and abandoned water channels which came under the possession of the Irrigation Department free of cost, land should be restored to the original owners or their heirs free of charge.*

494. xx xx xx xx xx

495. *If the heirs of the original owners cannot be traced, or if they or the proprietors of adjoining land decline to accept the terms approved by Government, a further reference to Government will be necessary if it is proposed to alienate the land permanently in some other way."*

3. This Court after partly allowing the said petition had made the hereinafter extracted direction(s) upon the respondent concerned.

*"[16] Consequently, we allow this writ petition in part to the extent that the order dated 10.6.1988 is set aside with a direction to the Principal Secretary, Industries*

*Department, Punjab to pass afresh order after hearing all the stake holders and in accordance with law within a period of four months from the date of receipt of certified copy of the order. The petitioner be sent notice of hearing by way of registered post. Learned counsel undertakes that the petitioner shall avail on the very first opportunity of hearing. Needless to say that the competent authority would be at liberty to obtain a fact finding report with regard to the actual utilisation of the acquired land by the petitioner or its lessee before deciding the matter afresh. The landowners who had approached this Court by filing CWP No. 6414 of 1987 shall also be heard by the above named authority before taking the final decision.*

4. Conspicuously, the land losers concerned had also instituted CWP No. 6414 of 1987, before this Court but the said CWP was disposed of as infructuous by this Court vide order dated 15.09.1988, order whereof becomes extracted hereinafter.

*“The relief prayed for in the writ petition has already been granted by the respondents as seen from the affidavit of Mr.S.P. Attri, Functional Manager, District Industries Centre, Patiala and land itself has been de-acquired and handed over to the Deputy Commissioner, Patiala for disposal under the provisions contained in paragraph 493-495 of Financial Commissioner's standing order No. 28. In these circumstances, the writ petition has become infructuous and is dismissed as such.”*

5. Emphatically, the order made on CWP No. 12874 of 1989, was made on 02.12.2013. Therefore, the order (supra) was made subsequent to the order, i.e. on 15.09.1988, as became made on the land losers petition bearing No. 6414 of 1987.

6. Therefore, the order made on the petitioner's writ petition

(supra), which led to the making of the impugned Annexure P-1, thus, *prima facie*, ensures the mergings therein of the order passed on the land losers petition bearing No. 6414 of 1987.

7. On a reading of Annexure P-1, it emerges, that an opportunity of hearing became assigned, thus both to the petitioner herein and to the land losers concerned. The land losers concerned, propagated before the author of Annexure P-1, that, since the purpose of acquisition has become redundant or infructuous, inasmuch as, the subject lands remained un-utilized for the relevant purpose. Therefore, the acquired lands be returned to them.

8. On the other hand, the petitioner contended, that para 87 and para 87-A of the Financial Commissioner's Standing Order No. 28, which become extracted hereinafter, rather empowered the acquiring department, to on the acquired lands becoming surplus and/or not being required by the acquiring department, thereupon, they are required to be transferred, thus to any of the Department of the Government or to any public undertaking at appropriate price, and/or, in case the disposal is not possible in the manner (supra), thereupon, the lands are amenable for sale through public auction.

*“87. Where the land acquired for a public purpose under the provisions of Land Acquisition Act, 1894 becomes surplus and/or is not required by the Acquiring Department the same shall be disposed of in the following manner:-*

*(1) Transfer to any of the Departments of the Government of Punjab or State Public Undertaking at appropriate price.*

*(ii) In case the disposal is not possible in the manner mentioned at (i) above, by sale through public auction.*

*87-A. Each District Collector in the State should every three years on 31st March, prepare and forward a statement to the Acquiring Department, showing the lands that have been acquired in his district for public purposes but not utilised as such during the period under report. The Acquiring Department/ Undertaking, thereupon, shall evaluate the scheme/ project for which it was acquired. In case they do not require it or the same or a part thereof is found surplus, the procedure as laid down in Para no. 87 shall be followed for the disposal of the said land."*

9. The petitioner further contended that para 87 and para 87-A of the Financial Commissioner's Standing Order No. 28, when are not applicable to them, as they had been, after paying the sale price thereof, comprised in a sum of Rs.12,375/-, thus allotted the subject lands but after the making of an award Annexure P-3. Therefore, it was contended that the said orders are inapplicable to a scenario, where there is vestment of right, title and interest in the above manner over the subject lands, rather in the petitioner.

10. It is but crystal clear from a reading of the impugned order that the request of the land losers for their acquired lands becoming returned to them became rejected, thus on the ground, that they have accepted the compensation, as became determined through an award made in the year 1956.

11. However, the contention (supra) raised by the present petitioner with respect to the inapplicability to them of the paras (supra), as embodied in Financial Commissioner's Standing Order No.28 rather was rejected. Consequently, a direction was made, that the land measuring 38 bighas 10 biswas situated in Bassi Pathania, be transferred to the Industries Department with immediate effect. It was

also subsequently declared therein that, hereinafter the Department of Industries may transfer the subject land to any of the Departments or State Public Undertakings, thus in terms of para 87 of the Financial Commissioner's Standing Order No. 28.

12. Though the said order was pronounced in the year 2014, but the writ petition has been instituted much subsequently therefrom inasmuch as the same has been instituted in the year 2019.

13. Though, *prima facie*, the belatedly raised motion against the impugned Annexure A-1, but necessarily makes the instant petition to be carrying the stains of delays and laches, but the petitioner explains the said delays and laches, on the premise, that the petitioner was never intimated, about the making of Annexure P-1, and that only, belatedly in the year 2019, when one of the Directors of the petitioner becoming served with a notice, under Sections 4 and 5 (Annexure P-16) by the Collector exercising jurisdiction of the Punjab Public Premises (Eviction of Land) Act, 1973 (hereinafter for short called as 'the 1973 Act'), that the petitioner acquired the relevant awakening about the passing of Annexure P-1, and, that immediately subsequently thereto, the instant writ petition was filed, wherebys thus it is not hit by the vices of delay and laches.

14. The assertion made by the respondents in the written statement that Annexure P-1, was communicated to the petitioner vide letter dated 28.10.2014, has also been attempted to be repelled rather for lack of proof of delivery of the said communication to the petitioner, either through AD covers being placed on record or through any accepting endorsement being placed before this Court, by the

15. Therefore, in the above manner, the vices, if any, of delay and latches, thus making the petition to be mis-constituted rather has been attempted to be scuttled.

**Substantial questions of law.**

16. The substantial questions of law which are required to be answered in the instant case, are thus formulated hereunders.

a) Whether after the completest termination of acquisition proceedings, thus through an award being made, on 17.10.1956, by the Collector, Fatehgarh Sahib, through recouring being made to the Land Acquisition Act, 1894 (hereinafter for short called as the 'Act of 1894'), whereafters, upon, the cost price thereof comprised in a sum of Rs. 12,375/-, becoming deposited, thus the subject lands becoming transferred by sale to the petitioner, whether thereafters' there could be a de-notification of the acquired lands.

b) Whether after the land losers concerned, through the award Annexure P-3, as made by the Collector Fatehgarh Sahib, receiving the assessed compensation amount comprised in a sum of Rs. 12,375/- yet theirs becoming entitled to claim release of the acquired lands from acquisition or theirs becoming well entitled to seek restoration of possession of the acquired lands to them.

c) When the mutation No. 6193 was attested on 27.09.1962, whereby, in terms of the relevant sale of the subject lands, ownership rights thereons became conferred upon the present petitioner, whether the said mutation conferring ownership can be set aside accordingly.

d) Whether when as such absolute right, title and interest as absolute owner became conferred upon the present

petitioner, whether subsequently the State was empowered to de-notify the lands from acquisition and also whether it became well empowered to make the impugned Annexure P-1.

e) Whether also the rights as absolute owner, becoming conferred through mutation (supra), upon the present petitioner, yet the respondents could, on purported non-utilization of the subject lands, thus de-notify the lands from acquisition, especially when the imperative terms and conditions carried in the allotment letter, whereons a purported leverage became bestowed upon the respondent to rescind the said allotment, and, thereafter it de-notifying the lands from acquisition, rather never became placed on record.

f) Whether the notification de-notifying the lands from acquisition besides whether Annexure P-1, is violative of Articles 14 read with Article 300 A of the Constitution of India, whereby an owner of land is not amenable to become deprived of his property except, in accordance with law.

**ANSWERS TO THE ABOVE FORMULATED SUBSTANTIAL QUESTIONS OF LAW.**

17. For the reasons to be assigned hereinafter, the above extracted formulated substantial questions of law are answered in favour of the petitioner and but obviously they are answered against the respondents. Consequently, the writ petition is allowed and the impugned order is quashed and set aside.

**Backdrop of the acquisition proceedings.**

18. Before proceeding to make an answer to the above formulated substantial questions of law, it is deemed imperative, to make a ready reckoning to the backdrop of the acquisition proceedings,

as became launched under the 'Act of 1894'.

19. The Patiala and East Punjab States Union Land Acquisition Act, 1953 (for short 'the PEPSU ACT') was published in part – II Section 1 of the Gazette of Government of India (Extraordinary) and the same came into force immediately. Section 3 of 'the PEPSU Act' extended the provisions of the 'Act of 1894' to the State of PEPSU, thus relating to acquisition of lands, but subject to modifications specified in the schedule thereto, but only for purposes other than purposes of the Union.

20. In terms thereof, the then PEPSU State issued notifications under Section 4 and 6 respectively, on 13.02.1956 and on 18.02.1956, thus under the 'Act of 1894', read with 'the PEPSU Act', whereby the land measuring 38 bighas 10 biswas was proposed to be acquired, for a public purpose, inasmuch as, for the setting up of Central Workshop for Sewing Machine at Bassi Pathania. An award comprised in a sum of Rs. 12,375/- was made on 17.10.1956, by the Collector, Fatehgarh Sahib. It is not disputed amongst the contesting litigants that the above determined compensation became released to the land losers concerned.

21. In the year 1955, the petitioner firm was constituted to establish a small scale industry of sewing machine parts at Bassi Pathania, District Patiala. However, on enactment of the States re-organization 1956, thereby merger of the territories of the then State of PEPSU, was made into the State of Punjab.

22. The conspicuous striking fact, is that, the then State Government of PEPSU by receipt of the cost price (i.e. on receiving full payment on 30.10.1956, in the State Treasury at Sirhind) of the subject

making of the award dated 17.10.1956, thus transferred the same by sale to the petitioner.

23. With effect from 01.11.1956, under the States Re-organization Act, 1956, the then State of PEPSU including Fatehgarh Sahib merged into the territories of the Punjab State. The transfer by sale of the subject land for Rs. 12,375/- became also conferred by an order dated 17.10.1956, as made by Sh. S.K.S. Pandiya, I.A.S., Collector, District Fatehgarh Sahib (Sub Division Bassi Pathania). Furthermore, the mutation of ownership became made in favour of the petitioner from land owners by the revenue authority, on 27.09.1962, vide mutation no. 6193.

24. It was further averred that the petitioner by raising funds from its own sources, it set up its unit on a parcel of subject land measuring 4 kanal approximately. The said unit is stated to still working after obtaining electrical connection in the petitioner's name.

25. Thereafter, on 30.06.1970, the original landowners of the subject land, made a representation to Deputy Commissioner, Patiala, for restoration to them, of possession of the acquired lands, on the ground, that no Central Workshop of Sewing Machines, had been set up thereons for 14 years, after the possession of the subject land becoming transferred to the petitioner. However, no response to the said representation of the original landowners was invited from the petitioner, though the petitioner being the entity which was directly affected from the outcome on the decision on the said representation.

26. The District Industries Officer, Patiala, however, submitted its reply inter-alia, stating that the possession of the land was given to

Bassi Pathania, on 30.10.1956, for setting up a workshop for the sewing machines. It was further stated that the terms and conditions on which the land was given to the above party are not now available in the records, thus it cannot be said that Sarv/Shri Ram Lal and Ram Charan has violated any of the terms and conditions.

27. Further, it is averred that on 10.06.1988, a decision (Annexure P-13) was taken without any notice and hearing to the petitioner by the Government of Punjab, Department of Industries, as to the handing over the subject lands to the Deputy Commissioner, Patiala, for its disposal under the provisions contained in paragraph No. 493/495 of Financial Commissioner's Standing Order No. 28.

**Inferences of this Court to the above formulated substantial questions of law.**

28. Strikingly besides un-controvertedly also prior to 15.05.1957, Section 54 of the Transfer of Property Act, 1882 was in-applicable to the then State of PEPSU, thereby, un-controvertedly, thus no registered deed of transfer in terms of the Registration Act, was required to be either executed nor was required to be as such registered before the Sub Registrar concerned. Therefore, on receipt of sale consideration (supra) by the then Government of PEPSU, thus led to even, after the merger of PEPSU State into the State of Punjab, thus through the coming into force of the States re-organization 1956, rather on 31.08.1956, the makings of an attestation of mutation, on 27.09.1962, vide mutation no. 6193 (Annexure P-4), vis-à-vis, the present petitioner.

29. Consequently, the effect thereof, is that, when the said order of mutation was made by the revenue authorities working under

the State of Punjab, and, thereby, but naturally, the State of Punjab, becomes estopped to challenge the validity of Annexure P-4, on whatsoever permissible legal grounds.

30. The further effect thereof, is that, when even otherwise, no valid challenge is made to Annexure P-4, thus on the ground that it became attested without the sale consideration in respect of the subject lands not being deposited in the Treasury concerned, thereupon, the unchallenged order of mutation Annexure P-4, enjoined utmost sanctity becoming assigned thereto and but with a natural consequence, that thereby the respondent accepted that in terms thereof, absolute title as owner became conferred upon the present petitioner vis-à-vis the acquired lands.

31. The said transfer occurred after completion of acquisition proceedings, whereto no challenge has been thrown by the land losers concerned, rather especially with theirs accepting the compensation amount, as became determined in the relevant award, thereby, they are completely estopped from making any claims, thus for the possession of the acquired lands being restored to them. Even otherwise since they have not challenged the rejection of the said claim, as made in Annexure P-1, therebys, they accept the finality and conclusivity of the acquisition proceedings which became launched by the then acquiring authority.

32. The State of Punjab wherein became amalgamated the territories of the erstwhile State of PEPSU, on 31.08.1956, thus on the enactment of State Re-Organizations Act, 1956, has also not placed on record any material but suggestive, that the said launched proceedings

acquisition proceedings requiring annulment. If so, there was no occasion for the State of Punjab, to, on anvil of the paragraphs (supra) embodied in the Financial Commissioner's Order No. 28, rather proceed to annul the vestment of right, title and interest in the present petitioner, through making of the notification whereby, the subject lands became de-notified from acquisition.

33. The reason for making the above inference stems, from the factum that recourse to the said provision, is both tenable as well as legally justifiable, but only when both possession as well as right, title and interest over the acquired lands rather remains evidently vested in the acquiring authority concerned. However, contrarily when right, title and interest over the subject lands rather has vested in the above manner, in the petitioner concerned, thereby, when but obviously there was a concomitant divestment of right, title and interest over the subject lands, rather in the respondent concerned. Resultantly, when the mandate of the above extracted paragraphs, as carried in the Financial Commissioner Standing Order No. 28, but are evidently applicable to a scenario, when the acquiring department holds absolute right, title and interest over the acquired lands, but not when there is complete divestment thereof, in the acquiring department, as has occurred in the instant case, thereby, also there is a complete mis-reading of the import of the said above standing order (supra), besides there is a complete mis-application of the mandate thereof, vis-a-vis the subject lands.

34. Though the respondents concerned, contended, that the transfer of ownership made to the present petitioner rather was a conditional one, but neither the requisite conditions nor the said

notification, thus de-notifying the lands from acquisition, became never being placed on record. Therefore, for wants of placings on record, thus the relevant breached conditions, thereby the respondents cannot contend that there being a palpable/evident breach of the conditional conferment of right, title and interest vis-à-vis petitioner with respect to the subject lands nor for any purported breach thereof thus the notification de-notifying the acquired lands from acquisition, rather could be issued.

35. Now assuming that even if the conferment of right, title and interest upon the petitioner in the manner (supra), was but a conditional conferment and also assuming that the imperative condition became breached by the present petitioner, yet when the petitioner tendered sale price in respect of the subject lands, whereafter's, he became conferred with absolute right as owner over the acquired lands, thus through the making of the un-contested mutation (supra).

36. Therefore, besides, necessarily also when no conditions can become visited upon the present petitioner, whereby the conferment of absolute title as owner upon the petitioner over the subject lands, can thus become abridged, as thereby, the jurisprudential concept of ownership, with a fine settled rubric, that there cannot be any abridgment or curtailment of rights of an absolute owner, rather would become untenably unsettled or dis-lodged.

37. Furthermore, the learned counsel for the petitioner has contended, that the acquisition of the subject land, was not made under Part VII of the Central Act thus, there would be no agreement between the petitioner and the then Government of PEPSU under the provisions

was required in the official gazette as per Section 42 of the said Central Act.

38. The above argument appears justifiable to the judicial conscience of this Court, as the acquisition were not made for the benefit of the petitioner-Company but were made for the public purpose (supra), nor thereby the statutory provision (supra) were required to either complied with and/or for non compliance theretos, thus no vitiation is acquired by the launched acquisition proceedings.

39. Admittedly, also a part of the land measuring 4 kanals, has been developed and is being utilized for the notified public purpose with 2 units working in proper building sheds with GST number, electricity connection and employment of labour etc.

40. If the petitioners are absolute title holders over the petition lands, thereby, there settled ownership over the petition lands, thus cannot be disturbed except, in accordance with law, inasmuch as, unless vis-à-vis the subject lands, thus the compensation became assessed, thereupon, the unsettling of ownership of the petitioner over the subject lands, through the respondent, making the notification, thus thereby de-notifying the lands from acquisition, but necessarily becomes imbued with a vice of arbitrary expropriation of the subject lands, in respect whereof, the petitioner holds absolute right, title and interest as owner.

41. The vice of delay and laches which has been urged by the counsel for the respondents, to bar the petitioners from raising a belated motion before this Court, is but adequately repelled, thus for lack of proof qua the delivery of communication of Annexure P-1, to the

through any accepting endorsement thereof, rather by the petitioner, being placed before this Court, by the counsel for the respondent. In consequence, the instant petition is not hit by the vice of delay and latches.

42. Be that as it may, when the impugned Annexure P-1, is for all the above stated reasons is vitiated with a pervasive flaw qua its derogating from the jurisprudential concept of ownership (supra), as available to be well leveraged by the petitioner. Therefore, too, any delay in the institution of the instant writ petition against the impugned Annexure P-1, thus cannot be said to override the conferment of right, title and interest in the manner stated herein above, thus in the petitioner over the subject lands, as thereby this Court would be validating the notification rather de-notifying the lands from acquisition, which otherwise for reason (supra), was completely ill made and was also legally un justifiable.

**FINAL ORDER BY THIS COURT.**

43. In aftermath, this Court finds merit in the writ petition, and, with the above observation(s), the same is allowed. The impugned order (Annexure P-1), is quashed and set aside.

44. Since the main cases itself have been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(HARSH BUNGER)**  
**JUDGE**

**31.01.2024**

kavneet singh