

A. Jain

Before Ranjit Singh, J.

JOGINDER SINGH AND ANOTHER—*Petitioners*

versus

**THE FINANCIAL COMMISSIONER (CO-OPERATION),
PUNJAB, CHANDIGARH AND OTHERS—*Respondents***

CWP No. 19648 of 2010

September 12, 2012

Constitution of India, 1950 Art. 226/227 - Land Acquisition Act, 1894 Ss. 4 & 6 - Land acquired and award made - On the basis of sale deeds made by the original land owner subsequent to acquisition, land mutated in favour of private respondents - Some portion of the acquired land after having been utilised for the project was found surplus - Government decided to transfer the surplus land to original owners in terms of the standing order of the Financial Commissioner - By then original land owner had expired - Children of the original owner objected to the land being mutated in favour of the vendees - Held, vendee would step

into the shoes of the vendor and once decision is taken by the Government to return the acquired land to the owners, this has to be returned to the vendees being bonafide purchasers of the land.

Held, that the petitioners apparently are being greedy, unjust and unfair in raising the objection. The case set up in the petition appears to be as if the petitioners were not aware of the sale deeds. In this regard also, the petitioners have been caught well and proper. One of the petitioner was Lambardar and a witness to these sale deeds and subsequent mutation in favour of the answering respondents, when their father had executed these sale deeds and had received a sum of Rs. 1,18,612/- as sale consideration. How and on what basis, the petitioners would urge or had urged before this court at the time of issuing notice of motion that these sale deeds were executed fraudulently? It is really a misleading submission. Even if the land was acquired prior to the sale deeds, the compensation for which was received by the petitioners, the fact would remain that fraud is on their part to sell this land after withholding this information from the answering respondents and obtained over lac of rupees from the answering respondents in this misleading and fraudulent manner. The SDM and the Financial Commissioner, in view my, have not viewed this case purely from legalistic angle and have been fair in protecting the innocent respondents, who have been doubly defrauded, first on account of having been sold a land for which the petitioners or their father did not have a valid title to pass and thereafter had been made to pay further for getting this land back when the Government decided to return the same. They cannot be put to further loss at the instance of the petitioners, who have clearly been found to have resorted to falsehood by first not getting this mutation changed and then selling this land to the answering respondents.

(Paras 8)

Further held, that even otherwise, the respondents have rightly referred to the legal position so far as the status of a purchaser of a land after the issuance of notification under Section 4 of the Act is concerned. The sale may not be binding on the Govt. for the purpose of acquiring this land. The purchaser of this land cannot question the acquisition proceedings, but the purchaser definitely would step into the shoes of a vendor and would

be entitled to compensation of the land under the Act even if it is so acquired. The sale deeds executed by the vendor would be binding on him. The vendor or his successor-in-interest cannot question the validity of a sale deed executed in favour of the purchaser. The answering respondents are owners in possession of the land in view of the fortunate circumstances, where the land remained unutilised. The petitioners have already benefited enough. They have received compensation by way of award passed by the Government and have received sale consideration of Rs. 1,18,612/-. Even the amount of Rs. 20,676/- has been deposited by the answering respondents. No law would stand in favour of the petitioners and the dispute relates to mutation only.

(Paras 9)

Further held, that in this case, the answering respondents would step into the shoes of the vendor, who was none other than the father of the petitioners and once the decision is taken by the Government to return this land to the owners, this has to be returned to the answering respondents, who would step into the shoes of their vendor being bonafide purchasers of this land. The order of mutation passed in favour of the answering respondents, therefore, is fully justified in law and otherwise and would not call for any interference.

(Para 10)

D. V. Sharma, Sr. Advocate with Shivani Sharma, Advocate, *for the petitioners*.

B. B. S. Teji, Addl. A. G., Punjab, for the State.

M. L. Saggar, Sr. Advocate with Sunny Saggar, Advocate, for respondent Nos. 5 to 18.

RANJIT SINGH, J.

(1) The issue relates to mutation entered in the names of private respondents. The petitioners plead that this mutation is done on the basis of forged sale deeds, alleged to have been executed by the original land owners while the land so sold already stood acquired by the Government after following due process and procedure under the Land Acquisition Act

(for short "the Act") on 24.2.1960. The award was passed on 17.4.1961. Thereafter, the State had deposited the compensation and, thus, became the owner of the land, which is allegedly sold to the respondents. As is alleged in the petition, ignoring this position, mutation of this land has been entered in the name of respondents on the basis of these sale deeds.

(2) A notification under Section 4 of the Act was issued on 29.1.1960 for acquisition of 221 acres of land, situated in village Chak Yusufpur Alewal, Tehsil Nakodar, District Jalandhar. Declaration under Section 6 of the Act was issued on 24.2.1960. The compensation was deposited on 14.3.1961 and, thus, the State of Punjab became the owner of the land. A mutation of the land in dispute was also entered in the name of the State of Punjab, but still the private respondents in connivance with the revenue staff have got the mutation sanctioned in their favour on the basis of some forged and fabricated sale deeds, which have been executed by the original land owners, i.e., the father of the petitioners.

(3) Upon acquisition, some portion of the land after having been utilized for completion of Harike Project was found surplus. A meeting accordingly was held on 9.7.1981 under the Chairmanship of the then Financial Commissioner and it was decided to transfer the surplus land to original owners in terms of the standing order of the Financial Commissioner. This was to be done after receipt of compensation paid at the time of acquisition, less 15% the arrears of rent, if any, was to be recovered at the time of allotment of land.

(4) On 22.2.2006, Collector Shahkot transferred the land in favour of the petitioners. By then, father of the petitioners had expired. The petitioners deposited the price of the land and the copy of the certificate in this regard is annexed with the petition. Despite this, Assistant Collector Ist Grade, Shahkot has entered the mutation in the names of the private respondents, whereafter the petitioners filed five separate appeals. Collector allowed the appeals on 20.10.2006 holding that all the five sale deeds have been cancelled by the Government in the year 1981 and the land was then transferred in favour of the Irrigation Department. Thereafter, the private respondents filed five appeals before the Commissioner, Jalandhar, which

were dismissed on 13.3.2009. Respondents then filed five revision petitions before the Financial Commissioner, who, on 17.8.2010 has accepted the revisions and has held that the alleged sale deeds cannot be ignored for the purpose of sanctioning mutation.

(5) Notice of motion was issued after making detailed reference to the submissions of the counsel appearing for the petitioners. The Court had indeed noticed in the order while issuing notice of motion that this land was returned to the petitioners without considering the effect of the sale deeds or the legality thereof. The Court accordingly observed that it may have to be seen if the land was returned by fraud. Noticing that the Financial Commissioner while sanctioning the mutation has not kept in view the aspect of acquisition of this land by the Government while fully relying on the sale deeds to direct mutation of the land in favour of the respondents, this Court has observed that there may be a need of some enquiry in this case.

(6) In response to notice, a written statement is filed on behalf of respondent Nos.5 to 18. Reference is made to the notification issued under Section 4 of the Act acquiring land measuring 1733 kanals and 8 marlas in Tehsil Shahkot, District Jalandhar for completion of Harike Pond Area Project. Notification under Section 6 of the Act followed and the award finally was made for land measuring 216.98 acres. Predecessor-in-interest Dalip Singh, father of the petitioners, had received the amount of compensation. Petitioner Joginder Singh, was the Lambardar of the village and the mutation of the land measuring 228 kanals 4 marlas was kept pending and not sanctioned in the revenue record in favour of the State. Dalip Singh, thus, continued to cultivate the land and was recorded as owner in possession of the same. On a representation made by Dalip Singh and petitioner Joginder Singh, respondents purchased this land measuring 228 kanals 4 marlas vide five different sale deeds, out of which, two were dated 29.6.1979, two dated 4.7.1979 and one dated 23.6.1979 for total sale consideration of ₹ 1,18,612/-. Petitioner Joginder Singh attested the sale deeds being Lambardar of the village as were executed by his father Dalip Singh. He himself was a witness and got sanctioned mutation Nos.270 to 273 and 277 in favour of the respondent purchasers. Answering respondents were delivered possession of the land and they have constructed their

residential houses in this land and are also in cultivating possession of this land till date. Later, Joginder Singh got mutation sanctioned in favour of the State Government regarding land measuring 228 kansas 4 marlas. Thus, it is stated that Joginder Singh and his father were fully aware that this land had been acquired by the State of Punjab, for which they received compensation. It is sheer good luck of the answering respondents that this land measuring 228 kanals 4 marlas along with some other land had remained unutilised for completion of Hारike Pond Area Project. Financial Commissioner thereafter took a decision to transfer this land to the owners or to the persons, who are the occupants of the land. The Deputy Commissioner was asked to complete the modalities by 31.8.1981. The answering respondents deposited an amount of ₹20,676/- on 9.2.2006. The Government, vide notification dated 7.6.1990, authorized SDM, Shahkot to dispose of the land within the local limits of his sub divisions, which had not been utilised for completion of Hारike Head Project. The SDM sanctioned mutation Nos.312 to 316 in favour of the respondents on 20.6.2006. The petitioners at that stage have raised objection against the sanction of this mutation, but their objection was ignored on the face of five sale deeds executed by Dalip Singh in favour of the respondents. This decision of the SDM was set-aside by the Collector and was upheld by the Commissioner. The Financial Commissioner has now set aside the orders passed by the Collector and the Commissioner and has restored the order passed by the SDM dated 20.6.2006.

(7) Senior counsel for the petitioners ofcourse started with lot of vigor to make his submissions, but when confronted with the fact that one of the petitioner was Lambardar and was a witness to the sale deeds in favour of the respondents as executed by his father, the counsel could not deny the same. The fact that answering respondents had deposited the amount when the land was to be returned and that the petitioners and their father had also received the compensation also could not be disputed by the counsel for the petitioners. In this context, the counsel for the petitioners was asked as to what right he would have in law or in equity to claim title to this land or to challenge the mutation done in favour of the answering respondents. The counsel for the petitioners did not have much to say.

(8) The petitioners apparently are being greedy, unjust and unfair in raising the objection. The case set up in the petition appears to be as if the petitioners were not aware of the sale deeds. In this regard also, the petitioners have been caught well and proper. One of the petitioner was Lambardar and a witness to these sale deeds and subsequent mutation in favour of the answering respondents, when their father had executed these sale deeds and had received a sum of Rs.1,18,612/- as sale consideration. How and on what basis, the petitioners would urge or had urged before this court at the time of issuing notice of motion that these sale deeds were executed fraudulently? It is really a misleading submission. Even if the land was acquired prior to the sale deeds, the compensation for which was received by the petitioners, the fact would remain that fraud is on their part to sell this land after withholding this information from the answering respondents and obtained over lac of rupees from the answering respondents in this misleading and fraudulent manner. The respondents are justified in submitting that it is their sheer good luck that this land, which they purchased, has remained unutilised and the Government has taken a decision to return this land to the owners. But for this fact they would have been put to a great loss where this land would have gone from their hand, where presently they have constructed their houses as well. The SDM and the Financial Commissioner, in view my, have not viewed this case purely from legalistic angle and have been fair in protecting the innocent respondents, who have been doubly defrauded, first on account of having been sold a land for which the petitioners or their father did not have a valid title to pass and thereafter had been made to pay further for getting this land back when the Government decided to return the same. They cannot be put to further loss at the instance of the petitioners, who have clearly been found to have resorted to falsehood by first not getting this mutation changed and then selling this land to the answering respondents.

(9) Even otherwise, the respondents have rightly referred to the legal position so far as the status of a purchaser of a land after the issuance of notification under Section 4 of the Act is concerned. The sale may not be binding on the Govt. for the purpose of acquiring this land. The purchaser of this land cannot question the acquisition proceedings, but the purchaser

definitely would step into the shoes of a vendor and would be entitled to compensation of the land under the Act even if it is so acquired. The sale deeds executed by the vendor would be binding on him. The vendor or his successor in-interest cannot question the validity of a sale deed executed in favour of the purchaser. The answering respondents are owners in possession of the land in view of the fortunate circumstances, where the land remained unutilised. The petitioners have already benefited enough. They have received compensation by way of award passed by the Government and have received sale consideration of Rs. 1,18,612/-. Even the amount of '20,676/- has been deposited by the answering respondents. No law would stand in favour of the petitioners and the dispute relates to mutation only.

(10) In any event, the possession of the land by the answering respondents does not seem to be in dispute. The counsel for the respondents is justified in making reference to *U.P. Jal Nigam, Lucknow through its Chairman and another Versus Kalra Properties (P) Ltd., Lucknow and others (I)*, where the Hon'ble Supreme Court has held that subsequent purchaser has a right to claim compensation where the alienation of the land is done subsequent to the notification under Section 4. Sale may be void against the State and the purchaser does not acquire any right, title or interest in the land. Purchaser may also not be able to challenge the validity of the notification, but he is entitled to step into the shoes of the original owner and claim compensation. In this case, the answering respondents would step into the shoes of the vendor, who was none other than the father of the petitioners and once the decision is taken by the Government to return this land to the owners, this has to be returned to the answering respondents, who would step into the shoes of their vendor being bonafide purchasers of this land. The order of mutation passed in favour of the answering respondents, therefore, is fully justified in law and otherwise and would not call for any interference.

(11) The writ petition, therefore, is without merit and is dismissed.

V. Suri