

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4423 OF 2010
(Arising out of SLP(C)No.1146 OF 2009)

SHAM LAL MANCHANDA & ORS.

.....APPELLANTS

VERSUS

STATE OF HARYANA & ANR.

.....RESPONDENTS

O R D E R

Leave granted.

This appeal is directed against order dated 12.02.2008 passed by the Division Bench of Punjab and Haryana High Court whereby it dismissed a batch of writ petitions filed by the appellants and others questioning the acquisition of their land for a public purpose i.e. development and utilization of the land for residential, commercial and industrial area of Sectors 10 and 11, Ambala Cantt by Haryana Urban Development Authority under the Haryana Urban Development Authority Act, 1977, 1977 (for short 'the Act').

While issuing notice in the Special Leave Petition on 09.01.2009, this Court had taken cognizance of the fact that though the appellants had filed writ petition before passing of the award, the same was decided and dismissed along with Civil Writ Petition No.9794 of 2005 which was filed sixteen months after passing of the award.

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Mr. Mukul Rohtagi, learned senior counsel appearing on behalf of the appellants argued that the High Court committed serious error in negating the appellants' challenge to the acquisition of their land solely on the ground that Civil Writ Petition No.9794 of 2005 and some other petitions were filed after sixteen months of the passing of award. Learned senior counsel submitted that the law laid down by this Court in Star

Wire (India) Ltd. Vs. State of Haryana and others, (1996) 11 SCC 698, Municipal Council Ahmednagar vs. Shah Hyder Beig, (2000) 2 SCC 48 and C. Padma vs. Dy. Secretary to the Government of Tamil Nadu, (1997) 2 SCC 627, has no bearing on the appellants' case but the High Court overlooked the vital distinction between their petition vis-a-vis other petitions and rejected their prayer for quashing the acquisition proceedings.

No one has appeared on behalf of the respondents despite the fact that the case was taken up in the pre-lunch as well as post-lunch session.

We have carefully perused the record and considered the submissions of Mr. Mukul Rohtagi. Since it is undisputed position that the appellants had filed writ petition before passing of the award, the Division Bench of the High Court was not justified in negating their challenge on the premise that other writ petitions were filed after sixteen months of the award.

The law laid down by this Court in the judgments referred to in the preceding paragraph has no application to the case of the appellants and they could not have been non-suited on the ground that the writ

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petitions were filed after passing of the award.

On the premise aforesaid, the appeal is allowed. The impugned order is set aside insofar as it relates to the writ petition filed by the appellants and the matter is remitted to the High Court for fresh disposal of Writ Petition No.17269 of 2003.

While allowing the appeal and remitting the matter to the High Court, we make it clear that the appellants shall be free to move the High Court for appropriate interim relief.

We also give liberty to the appellants to urge additional grounds in support of their challenge to the acquisition proceedings by filing an appropriate affidavit. If the appellants file such an affidavit, the respondents shall be free to file counter affidavit.

Since, the matter relates to acquisition of land for a public purpose, we request the High Court to decide the writ

