

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11698 of 2015

Date of Decision: 28.5.2015

Smt. Nirmal Saini and another

....Petitioners.

Versus

Union of India and another

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE REKHA MITTAL.**

PRESENT: Ms. Samiya Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of Mandamus directing the respondents to acquire the land measuring 1 kanal 5 marlas situated in village Raipur Khurd, Chandigarh owned by the petitioners, possession of which has been taken by respondent No.2.

2. The petitioners are owners of land measuring 1 kanal 5 marlas situated within the revenue estate of village Raipur Khurd, UT, Chandigarh which was purchased by them vide registered sale deed dated 8.3.1990 and mutation thereof was sanctioned in their favour on 17.7.1990. The land was demarcated on 10.11.1990 and wire around the same was put. The land was being cultivated by the petitioners and khasra girdwari was also changed in their names in the year 1991. They remained in the cultivating possession of the land upto 24.5.1995 when

the officials of the respondents started digging land for installing cemented pillars around the boundary of the land where earlier wire was put by the petitioners. The petitioners objected to their action upon which re-demarcation was got done on 29.5.1995 and the land was found in the possession of the petitioners. The petitioners filed a civil suit for declaration and mandatory injunction directing the respondents to remove the barbed wire. During the pendency of the suit, a wall was constructed. The said suit was decreed by the trial court vide judgment and decree dated 19.10.2001 holding the petitioners to be owners in possession of the suit land. The respondents challenged the said judgment and decree dated 19.10.2001 by way of appeal before the District Judge, Chandigarh which was partly allowed vide judgment dated 15.2.2011 and the case was remanded back to the trial court for fresh decision. The suit was again decreed by the trial court vide judgment and decree dated 22.7.2011 (Annexure P-1) and the said judgment has attained finality as no further appeal was filed by the respondents. The petitioners filed execution in which statement was made by the respondents on 11.10.2013 that the wire and poles have been removed upon which the said execution was filed being satisfied. Thereafter, the respondents have constructed a wall and have also taken forcibly possession of the land of the petitioners. The petitioners served a legal notice dated 5.12.2013 (Annexure P-3) upon the respondents for removing the said wall constructed after the passing of the decree and making a statement in the court on 11.10.2013. Reply dated 9.12.2013 (Annexure P-4) to the said notice was sent by the Military Engineering Service, Garrison Engineer, Chandigarh pleading that the said land was not under the possession of the said office and the legal notice was

returned whereas the other respondents did not respond to the legal notice served upon them. When nothing was done on the said legal notice, the petitioners again sent a legal notice dated 27.1.2015 (Annexure P-5) to the respondents to the effect that their land be acquired at the earliest as they would not be able to take back the possession of the same as the respondents have constructed residential houses adjoining to the land and a four wall has also been constructed, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have sent a legal notice dated 27.1.2015 (Annexure P-5) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the legal notice dated 27.1.2015 (Annexure P-5), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

May 28, 2015
gbs

(REKHA MITTAL)
JUDGE