

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.12929 of 2014

Date of decision: December 01, 2015.

Mewa Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: Shri Naresh Kaushal, Advocate, for the petitioner.

Shri N.D.S. Mann, Additional Advocate General, Punjab,
for the respondents.

Hemant Gupta, J.

Challenge in the present writ petition is to the notification dated 29.07.2013 (Annexure P-9), whereby the land measuring 126 kanals 18 marlas including the land of the petitioner measuring 4 kanal 14 marlas was de-notified from acquisition as well as notices dated 26.03.2013 (Annexure P-3) demanding deposit of Rs.88,12,500 i.e. the compensation amount paid to the petitioner and dated 17.12.2013 (Annexure P-10) whereby his property was sought to be attached.

The petitioner claims to be owner of land comprising in khasra No.16//3 (8-0) and 8 (7-11) situated within the revenue estate of Village Jheurheri, Tehsil and District SAS Nagar Mohali. The said land was acquired for a public purpose for setting up of an International Civil Air Terminal at Mohali vide Award dated 09.04.2008.

The assertion of the petitioner is that the land mentioned above is owned and possessed by the petitioner and is so reflected in the revenue

record except 3 kanal of land, which reflects the possession of the Central Government Defence. The petitioner is, thus, rightly paid compensation for the entire land acquired, but the respondents have withheld compensation of 3 kanal of land comprising in Khasra No.16//3(1-10), 8(1-10) recorded in possession of the Central Government and have raised demand for refund of the remaining land measuring 4 Kanals 14 Marlas illegally and in unjustified manner.

The petitioner challenged the communication dated 26.03.2013 whereby he was called upon to deposit an amount of Rs.88,12,500/- as the land measuring 4 kanal 14 marla was already notified for acquisition on 20.05.1968, when notification under Section 6 of the Act was published and Award was announced on 13.02.1969. If the amount was not deposited, the recovery under the provisions of the Punjab Land Revenue Act, 1887 was sought to be initiated. The petitioner submitted reply pointing out that the land measuring 4 kanal 14 marla was not acquired in the year 1968-69. The petitioner sought information under the Right to Information Act and asserted that though the petitioner has been supplied copy of the notifications dated 20.05.1968 as well as Award dated 13.02.1969, but it was responded that no record of payment of compensation is available in the office. Therefore, the petitioner alleged that the compensation of the land was not disbursed to the petitioner and the petitioner continues to be in possession of the land, thereforek the proceedings stand lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

It is also argued that the notification has been published on 29.7.2013 de-notifying the land measuring 4 kanal 14 marla from acquisition. The said de-notification was challenged on the ground that the

land was earlier not acquired and therefore, the respondents cannot take possession and use the land and have no right to claim refund of the amount of compensation paid in pursuance of the Award of 2013.

In the written statement, it has been clarified that there were three separate acquisitions in respect of the land of the petitioner. The first acquisition was in respect of land measuring 3 kanal falling in khasra No.16//3 (1-10) & khasra No.8 (1-10) for which notification was issued on 22.06.1966. Another notification under Section 4 was published in April, 1968 in respect of land measuring 4 kanal 14 marla that is in respect of the land comprising in khasra No.16/3/1/2 (2-12) and khasra No.8/2/1 (2-02), followed by notification under Section 6 of the Act on 20.05.1968. An Award was announced thereafter on 13.02.1969. The possession was delivered on 03.06.1968. The land was acquired by invoking the urgency provisions contained under Section 17 of the Act. It is explained that the mutation of land measuring 4 kanal 14 marla was not entered, therefore, inadvertently the notification was again issued on 29.07.2013, when land measuring 43 Kanal 14 Marla situated in Village Jheurheri was acquired for a public purpose i.e. for International Civil Air Terminal. Award No.33 of 2008 was announced including the land of the petitioner measuring 4 Kanal 14 Marla. It is pointed out that the said land, which was included in the notification dated 29.07.2013 was, in fact, part of the earlier notifications, mentioned above. In these circumstances, an amount of Rs.88,12,500/- has been wrongly paid to the petitioner. It is also averred that similar wrong payments were made to many other land-owners and 26 of such land-owners have refunded the amount disbursed. A list of such deposits is attached as Annexure R-2/2.

The sole argument raised by learned counsel for the petitioner is

that compensation amount was not deposited with respect to land measuring 4 kanal 14 marla, after the Award was announced on 13.02.1969. The respondents have not produced any proof of payment of amount of compensation.

A perusal of the jamabandi for the year 1995-96 (Annexure P-2) shows that Khasra No.16//3 (6-10) and Khasra No. 8 (6-1) is recorded in the ownership of the petitioner. The said jamabandi also shows that the land measuring 1 Kanal 10 Marla each comprising in Khasra Nos.16/3 and 8 is recorded in the possession of the Central Government, Defence Department. It, thus, shows that land measuring 4 Kanal 14 Marla comprising in Khasra Nos.16//3 and 8 for which notification under Section 6 was published on 20.05.1968 was again included in the notification dated 29.07.2013.

The grievance of the petitioner that compensation was not deposited cannot be believed. As many as 26 similarly situated land-owners have refunded the amount disbursed to them for the reason that their land was mistakenly included in the notifications under Sections 4 & 6 of the Act issued in the year 2013. If similarly situated large number of land-owners have accepted that the compensation now paid is not due to them, the petitioner cannot be believed to say that he did not receive the amount of compensation. In respect of earlier notifications, Award was announced in the year 1969. No land-owner would permit any Government or non-Government authority to enter into possession of his land, unless the same proceeds with legal sanction. The fact that no dispute was raised, when the Award was announced on 13.02.1969, shows that the land was acquired and compensation paid. Mere fact that on account of long lapse of time that is almost 45 years, the record in respect of payment could not be traced out, is not a ground on the basis of which the argument of the petitioner that

compensation was not paid, can be accepted. For almost 45 years, the petitioner has not raised any dispute about the possession of the respondents without any compensation. Such long silence speaks the volume of the conduct of the petitioner that in fact compensation was paid and long lapse of time has been made excuse to raise a plea of non-payment of compensation at this stage. The said argument lacks bona fide and cannot be believed.

In view of the above, we do not find any merit in the present writ petition. The same is accordingly dismissed. The petitioner is liable to refund the amount of compensation i.e. Rs.88,12,500/- disbursed to him forthwith in accordance with law.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

December 01, 2015
Kadyan/Vimal