

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

CWP No.19751 of 2014

Date of decision: September 28, 2015.

Rajwant Singh and another

... **Petitioners**

v.

Union of India and another

... **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 Rakesh Gupta, Advocate, for the petitioners.
Shri Neeraj Madan, Advocate for the respondents.

Hemant Gupta, J. (oral)

The petitioners are owners of small portions of land situated in village Rupalon, Tehsil Samrala, District Ludhiana. Such land was acquired for the purpose of execution, maintenance, management and operation of 'Special Railway Project: Eastern Dedicated Freight Corridor in the District of Ludhiana' by way of notification dated 20.4.2010 published under Section 20-A of the Railway Act, 1989. Subsequent declaration was published on 19.4.2011 as contemplated by Section 20-E of the aforesaid Act. Thereafter, the award was announced on 28.2.2012 awarding a compensation of Rs.78,70,22,246/- @ Rs.1,15,00,000/- per acre along with statutory benefits. It was also stipulated that no litigation premium as per Punjab Government circular dated 6.12.2006 shall also be provided on the determined market value of the land being acquired as it is a case of compulsory acquisition.

The claim of the petitioners is that the amount of compensation in terms of the award has been disbursed on 15.9.2014, after legal notice was served, therefore, the petitioners are entitled to interest from 28.2.2012 till its disbursement on 15.9.2014, as also 10% of the total amount payable as “no litigation premium”.

In reply, the stand of the respondents is that there is no delay in making the payment. The payment could not be made because of administrative reasons in fixing the ownership of the land owners in process of the land acquisition. It is also submitted that the petitioners are not entitled to “no litigation premium” as petitioners have not submitted requisite documents before the competent authority. The respondents refer to the communication dated 22.11.2010 (Annexure R-1) from the Executive Engineer, Bakhra Main Line Division, Patiala, that the amount of compensation of the acquired land should be paid to the Department of Irrigation and not to the persons in possession.

We have heard learned Counsel for the parties and find that the respondents have neglected in making the payment of amount of compensation to the land owners at the time of announcing the award. The communication Annexure R-1 dated 22.11.2010, is before the publication of the declaration dated 19.4.2011. The award has been announced subsequently on 28.2.2012. After the announcement of the award, there cannot be any dispute regarding entitlement of the persons to receive the amount of compensation as none is noticed in the award. In fact, none is pointed out in the award that there was some dispute regarding the payment of compensation at the time of announcement of the award. Therefore, non-

payment of compensation immediately on announcement of the award is not for justified reasons.

Still further, the award contemplates that “no litigation premium” as provided in the Punjab Government circular dated 6.12.2006 shall be paid on the determined market value of the acquired land. There is no requirement that affidavit has to be filed before the announcement of the award or within some specified time after announcement of the award. The petitioners have produced an affidavit dated 10.9.2014 on record Annexure P-4. Though it is sought to be submitted that such affidavit is not available on the record of the respondents, but even if any such affidavit is not filed, the petitioners shall still be entitled to “no litigation premium” on furnishing of an affidavit even now as there is no time limit for furnishing of an affidavit. Admittedly, the petitioners have not taken any step disputing the acquisition or the amount of compensation.

Consequently, we allow the present writ petition and direct the respondents to pay interest from 29.2.2012 till 14.9.2014 as well as “no litigation premium”. The amount of interest @ 9% p.a as contemplated by Section 20-H (5) of the Railways Act, 1989 and “no litigation premium” shall be paid expeditiously and preferably within a period of three months from today.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

September 28, 2015.
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