

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

CWP No.24810 of 2014

Date of decision: September 07, 2015.

CHAND KAUR & ORS

... **Petitioners**

v.

STATE OF PUNJAB & ORS

... **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 C.M. Munjal, Advocate, for the petitioners.

Shri Manoj Bajaj, Additional Advocate General, Punjab
for the respondents.

Hemant Gupta, J. (oral)

The petitioners, as legal heirs of Chaggar Singh, have invoked the writ jurisdiction of this Court claiming benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

It is averred that Chaggar Singh was owner in possession of land comprising in khasra No.985 measuring 21 kanal 8 marla in the revenue estate of village Khemuna, Tehsil and District Bathinda. The notification under Section 4 of the Land Acquisition Act, 1894 was issued on 24.1.1974 followed by a notification under Section 6 of the Act of 6.3.1974 in respect of land measuring 10 kanal. The public purpose for

acquisition of land was allotment of house-sites to the landless workers in the rural area.

The grievance of the petitioners is that the land was acquired but its actual physical possession was never taken. The petitioners disputed mutation No.2189 dated 16.7.1976 entered in pursuance of the notification issued. The petitioners rely upon jamabandis, Annexures P-1 to P-6, from the year 1976-77 till 2011-12 in support of the assertion that the petitioners continue to be in possession of the land in question.

In the written statement, it is averred that the acquisition is more than 40 years old, therefore, revenue record is not available. However, it is stated that after acquisition of 10 kanal of land, the same was allotted in the shape of plots to poor people of the village. Mutation No.2189 was recorded in the name of 50 individuals on 16.7.1976 and physical possession was also delivered to the allottees at the spot. It is further averred that on receiving the notice of the present petition, the actual possession was again verified at the ground level. It was found that land measuring 10 kanal is in possession of various allottees, in which, either they have constructed their houses or have set up *Ruris*. Some of the land is lying vacant whereas 11 kanal 8 marla is in possession of Petitioner No.2 Avtar Singh. It is further averred that the land measuring 21 kanal 8 marla is *gair mumkin* and that no area of this khasra number is under cultivation.

In the rejoinder, the stand of the petitioners is that none of these individuals were ever shown in cultivating possession of the land in question.

We find that since the land measuring 10 kanal stands allotted way back in the year 1976, obviously the allottees would be in possession. Even if some of the allottees are not in possession, it will not lead to the conclusion that the State has not taken possession. Mere fact that the revenue record is not updated is not conclusive to hold that the original land-owners are in possession. This Court cannot infer that the possession was not taken from the petitioners, when grievance of this kind is being made after almost 40 years after receiving compensation in the year 1974.

Dismissed.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

September 07, 2015.
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