

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

CWP No.2812 of 2015

Date of decision: September 15, 2015.

Kuldeep Singh and others

... **Petitioners**

v.

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 Anil Kumar Garg, Advocate, for the petitioners.

Shri Manoj Bajaj, Additional Advocate General, Punjab.

Hemant Gupta, J. (oral)

The petitioners claim benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the reason that the petitioners continue to be in possession of the land in question though the Award was announced on 5.1.1989.

A notification under Section 4 of the Land Acquisition Act, 1894 was published for intending to acquire land for public purpose, namely for extension of Kanganwal Distributory from R.D. 15.250 to tail R.D. 52.000 in Tehil Malerkotla, District Sangrur. The total land intended to be acquired was 56.80 acres. Subsequently, the declaration under Section 6 of

the Act was published and the Award was announced on 5.1.1989.

The assertion of the petitioners is that they continue to be in possession of the land acquired, therefore, in terms of provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the acquisition proceedings have lapsed.

In reply, the stand of the respondents is that not only the petitioners have received the amount of compensation but had also raised a reference for claiming enhanced compensation. The Reference Court decided the reference on 6.4.1995. It is also contended that the land is acquired to meet out the problem of depleting ground level water as per the report of the Central Ground Water Board. It is also pointed that the Gram Panchayats of different villages have sought improvisation of Kangwal Distributory, therefore, the land in question is required for the said purpose. It is also pointed out that the petitioners have been filing petition after petition on concocted grounds that extension of this canal is not required.

We have heard learned Counsel for the parties and find that the plea, that the petitioners continue to be in possession of the land in question, is not tenable. Once the compensation has been withdrawn way back in the year 1989, the presumption will be that the petitioners are not in possession of the land. Disbursement of compensation and taking of possession is simultaneous. Since the compensation has been deposited in pursuance of the Award, possession is deemed to be with the State. There is no construction over the land in question; therefore, the possession of the

vacant land is presumed to be with the State being owner thereof. It is not possible for the State to carry out fencing over the entire land acquired, therefore, even if some of the erstwhile land owners cultivate the land, which stands acquired and for which compensation has been paid, it will be an unauthorized user of the land which will not confer any benefit to the land owners in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 24(2) (ibid) contemplates legal possession and not an unauthorized possession.

In view of the above, we do not find any merit in the petition.

Dismissed.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

September 15, 2015.
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