

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.4790 of 2015(O&M)

Date of decision:3.9.2015

Dharambir and others

....Petitioners

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Vikram Punia, Advocate for the petitioners.

Mr. Amar Vivek, Additional A.G., Haryana for respondents.

HEMANT GUPTA, J.(Oral)

The petitioners, the legal heirs of Gugan Singh, have invoked the writ jurisdiction of this Court for directing the respondents to award compensation to the petitioners in lieu of land acquired. It is stated by the petitioners that the land measuring 3 kanals 19 marlas is owned by the petitioners but has been utilized for construction of irrigation channel since 1953.

The grievance of the petitioners is that no notification under Section 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act') was issued at that time to acquire the land of the petitioners. Therefore, the continuous possession of the respondents is illegal and unwarranted in law.

In reply, it has been pointed out that Ladpur Minor was excavated by the Irrigation Department more than 60 years back with the

consent of all beneficiaries, shareholders including the predecessors-in-interest of the petitioners who unanimously agreed to surrender the land of their shares free of cost for the above mentioned purpose. At that time, the canal water was very much valuable and life line of such shareholders for the purpose of irrigation of their land as there was no other source to make the water available for irrigation of their land for the reason that tubewell etc. were not in existence due to lack of scientific development and underground alkaline water.

The present writ petition has been filed after the death of Gugan Singh on 26.02.2015. Admittedly, the land is being utilized for the canal since the year 1953. The petitioners or their predecessors were very well aware of the fact that their land is being utilized for the canal. Since no objection was raised for all these years, the plea raised by the respondents in the written statement that it was by consent of the petitioners is believable. Therefore, the petitioners cannot be permitted to dispute the utilization of the land for the purpose of canal after more than 60 years.

Since the options to irrigate the land was limited soon after independence, therefore, the inhabitants of the village were more than willing to give their land free of cost to the State for providing means of irrigation. The source of irrigation was more valuable than the value of land. It provided source of livelihood to the villagers.

Therefore, in view of the fact that the petitioners have not raised any objection for more than 60 years, we find that the petitioners are

estopped to dispute the use of land for the irrigation purpose since the year 1953 in the present writ petition filed in the year 2015.

In view of the above, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 3, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE