

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

**CWP No.5432 of 2015
Date of decision: 26.5.2015**

Hans Raj and others

.....Petitioners

Vs.

Union of India and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Rohan Sharma, Advocate for Mr. Vikram Singh, Advocate
for the petitioners.

None for the respondents.

Ajay Kumar Mittal,J.

1. The petitioners seek a writ in the nature of mandamus directing the respondents to decide their representations dated 22.2.2009, 25.12.2009 and 30.10.2013, Annexures P.4 to P.6 with regard to sending the reference to the District Judge in pursuance to the order dated 7.3.2007, Annexure P.3 passed by the Land Acquisition Collector and for assessing the true market value of the fruit bearing trees on their land and releasing the payment

thereof.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners were owners in possession of land situated in Village Athotarwan, Tehsil Pathankot, District Gurdaspur. The Ministry of Defence acquired 498 acres of land in Village Athotarwan for defence purposes which included the land of the petitioners. Notification under Section 4 of the Land Acquisition Act, 1894 (in short, "the Act") was issued on 2.12.1977. Thereafter, declaration under section 6 of the Act was issued. No award was passed qua the fruit bearing trees of the petitioners. Aggrieved thereby, the petitioners filed CWP No.19786 of 2006 in this court which was disposed of vide order dated 14.12.2006 with a direction to decide the representation of the petitioners. When the petitioners did not get the compensation despite the order of this court dated 14.12.2006, they filed another CWP No.8785 of 2007. During the pendency of the said petition, certain payment was made to the petitioners and ultimately the writ petition was ordered to be rendered infructuous on account of payment to the petitioners. The fruit bearing trees of the petitioners were not included in the award dated 16.3.1988. The respondents sent supplementary draft award of the petitioners to the Deputy Commissioner on 22.9.1989 which was not finalized till 14.12.2006. Though the supplementary draft award No.1 was announced on 23.10.1989, the same was not approved till 2007. In view of the order passed by the Land Acquisition Collector dated 7.3.2007, Annexure P.3, the petitioners were paid compensation of ₹ 2,86,622.86 which was not acceptable to them. As the payment was made in the year 2008, the petitioners could not file reference. The petitioners filed representations dated 22.2.2009, 25.12.2009

and 30.10.2013, Annexures P.4 to P.6 to the respondent authorities with a prayer that the Collector may be directed to refer the dispute to the court of competent jurisdiction under section 18 of the Act but no action was taken. Hence the instant writ petition.

3. In the reply filed on behalf of the respondents, it has been inter alia stated that the petitioners failed to file reference under section 18 of the Act before the Collector even though they had been fully paid upto date interest till 11.8.2008. It was further submitted that the Collector finalized the award on 23.10.1989 assessing the market value of trees for ₹ 4,34,548/- but respondent Nos. 1 and 3 deposited a sum of ₹ 22,62,126/- calculating 15% interest from 5.3.1980 to 11.8.2008 which was disbursed to the writ petitioners by respondent No.2 after deducting income tax. Preliminary objection No.3 reads thus:-

“3. That as per the provisions of the Land Acquisition Act, 1894 as amended vide Act No.68 of 1984, petitioners/ex-land owners have to apply before the Collector seeking reference to the court for further enhancement under section 18 of the Act within six weeks from the date of payment from the Collector, if disagree with the amount. The petitioners failed to file reference under Section 18 before the Collector even though they have been fully paid updating interest upto 11.8.2008.”

4. We have heard learned counsel for the petitioners.

5. The only grievance in this petition is for a direction to the respondents to make reference to the court of competent jurisdiction under Section 18 of the Act. It being a statutory right, proper petition under Section 18 of the Act was required to be filed by the petitioners before an appropriate court within the prescribed limitation. The petitioners had made only representations Annexures P.4 to P.6 to the authorities. On the basis of

mere representations, it cannot be claimed that any reference be made to the court of competent jurisdiction. Learned counsel for the petitioners has not been able to substantiate the claim made in the petition. Consequently, we do not find any merit in the petition and the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 26, 2015
'gs'

(Rekha Mittal)
Judge