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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.9074 of 2014
Date of Decision: 08.01.2015.

Jaswinder Singh & others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arunjeet Singh Kakkar, Advocate
for the petitioners.

Mr. Ashwani Talwar, Addl. A.G. Punjab with
Mr. Sunil Kumar Vashisht, A.A.G., Punjab &
Ms. Ankita Gupta, A.A.G., Punjab.

1. ***Whether Reporters of local papers may be allowed to see the judgment ?***
2. ***To be referred to the Reporters or not ?***
3. ***Whether the judgment should be reported in the Digest?***

SURYA KANT, J. (ORAL)

The petitioners are the residents of village Mumara, Tehsil and District Faridkot. Their grievance is against the inaction of the authorities in not conducting e-auctioning of the land earmarked for mining. They also seek a mandamus to direct the respondent-authorities to pay a sum of ₹5,00,000/- to each petitioner on account of the financial loss suffered by them since 27.06.2011 when the first e-auctioning was held.

The undisputed facts are that the respondent-authorities put 241 quarries to e-auctioning, out of which, 16 quarries were of District Faridkot,

comprising revenue estate of various villages. The e-auctioning was conducted on 27.06.2011. While the case of the petitioners is that the land of each petitioner was included in the area of 16 quarries of District Faridkot, the official respondents have disputed this fact as according to them only the land of petitioner No.2 comprising Khasra No.848 measuring 16 Kanal was included. It is also the case of the official respondents that petitioner No.2 has already been paid compensation to the tune of ₹2,42,631/-.

It is also an admitted fact that vide the subsequent Notification dated 14.06.2013, 115 more quarries including 11 in District Faridkot were notified to be included for the purpose of e-auctioning and these 11 quarries included the land of remaining petitioners also, as per the details given in preliminary objection No.2 of the written statement.

The written statement filed by the respondents indeed reveals a very disturbing feature, namely, that the minor mineral quarries were notified and put to e-auctioning without even obtaining prior environmental clearance, contrary to the settled law.

The other fact brought on record is that no e-auctioning could be conducted for want of environmental clearance. Resultantly, no sand was extracted from the land of the petitioners except petitioner No.2, to whom the compensation is said to have been paid.

As regard to the allegation of the petitioners that due to inclusion of their land in the notified quarries they were deprived of using the same for agricultural purposes, the respondents have averred that as per the Khasra Girdawaris for the years 2011-2012, 2012-13, 2013-14 (Annexures R7-Colly) the petitioners have been sowing both the crops.

We have heard learned counsel for the parties and gone through the record.

The question whether the petitioners were deprived of utilising their land for the agricultural purposes and/or there was some impediment caused by the authorities in such utilisation, is essentially a question of fact. Needless to say that even in the absence of actual extraction of minor mineral, if the action of the authorities deprived the petitioners from utilising their land for the conventional purposes, in that event, also they would be entitled to compensation though it may not be at par with those farmers whose lands were actually utilised for extraction of minor minerals. Such a question, nonetheless, cannot be resolved in writ proceedings. At the same time the petitioners held not be relegated to a remedy which might prolong the determination of their claim due to procedural compulsions.

We, therefore, dispose of this writ petition with liberty to the petitioners to submit a comprehensive claim before the Secretary, Law and Legislative Department-cum-Legal Remembrancer, Punjab, (who is a Senior District and Sessions Judge) along with proof of the cloak, if any, created by the respondent-authorities against the natural enjoyment of the subject land.

On submission of such representation-cum-claim petition, the above-named Authority would determine as to whether the petitioners are entitled to any compensation and if so, to what extent. Needless to say that the determination shall be made after giving reasonable opportunity of hearing to the respondent-authorities.

We also grant the above stated liberty to petitioner No.2 as well for the purpose of determination of adequacy of compensation.

The Secretary, Law and Legislative Department-cum-Legal Remembrancer, Punjab shall decide the claim within a period of six months from the date of its submission.

Ordered accordingly.

(SURYA KANT)
JUDGE

08.01.2015

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(RAJ MOHAN SINGH)
JUDGE