

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8032 of 2015

Date of Decision: 28.4.2015

Ajit Singh and others

....Petitioners.

Versus

State of Punjab and another

...Respondents.

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

PRESENT: Mr. A.S. Narang, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of Mandamus directing the respondent No.2 to grant 'No Objection Certificate' as applied for vide application dated 17.3.2014 (Annexure P-5).

2. The predecessor-in-interest of the petitioners purchased the land measuring 7 kanal 6 marlas situated at village Guntala, Tehsil and District Amritsar vide sale certificate dated 4.6.1982 (Annexure P-1) in an open auction held in 1982 by the Central Government. The shares in the property in question were purchased by the petitioners and in partition of the land, the petitioners have in their ownership 4 kanal 11 marlas of land. In the year 2006, respondent No.2 claimed ownership of the land in question as the same fall in the scheme notified under Section 41 of the Punjab Town Improvement Act, 1942 vide notification

dated 19.2.1973 (537 acres Scheme). The award was passed on 4.5.1974 and the possession was taken from the land owners on 14.5.1980. According to the petitioners that in the year 1980 when the alleged acquisition took place, the property in question was under the ownership of the Central Government and was excluded from the acquisition. The petitioners filed a civil suit for permanent injunction restraining respondent No.2 from interfering in their peaceful possession. The said suit was decreed by the trial court vide judgment and decree dated 22.5.2009 (Annexure P-3). Respondent No.2 filed an appeal against the said judgment and decree and the appellate court vide judgment and decree dated 3.9.2012 (Annexure P-4) upheld the findings of the trial court and dismissed the appeal. Against the judgment and decree dated 3.9.2012 (Annexure P-4), respondent No.2 has preferred an appeal bearing RSA No. 4750 of 2014 before this Court after a delay of more than two years especially when the petitioners had applied for issuance of 'No Objection Certificate' regarding the property in question for raising construction vide application dated 17.3.2014 (Annexure P-5). In the said appeal, notice of motion has been issued by this Court for 3.9.2015. Since no action was taken on the application, Annexure P-5, the petitioners sent a justice demand notice dated 21.11.2014 (Annexure P-7) to respondent No.2, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have sent a justice demand notice dated 21.11.2014 (Annexure P-7) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing

the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the demand notice dated 21.11.2014 (Annexure P-7), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

April 28, 2015
gbs

(REKHA MITTAL)
JUDGE