

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Revision No. 5857 of 2014

Lakhbir Singh

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

2. Civil Revision No. 6262 of 2014

Binder Singh

... Petitioner(s)

Versus

Union of India

... Respondent(s)

3. Civil Revision No. 6267 of 2014

Angrej Singh and Another

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

AND

4. Civil Revision No. 6268 of 2014

Baldev Singh

... Petitioner(s)

Versus

Union of India

... Respondent(s)

Date of Decision : 22.03.2016

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Rajan Bansal, Advocate
for the petitioner(s).

Ms. Ranjana Shahi, Advocate
for the respondent(s).

Shekher Dhawan, J.

This order of mine shall dispose of four revision petitions i.e. Civil Revision Nos. 5857 of 2014, 6262 of 2014, 6267 of 2014 and 6268 of 2014 as the question, involved in all these petitions, is common. For the purpose of adjudication, facts are being taken from Civil Revision No. 5857 of 2014.

Vide impugned order dated 4.3.2014, passed by learned Additional District Judge, Bathinda, application under Order 21 Rule 11(2) CPC read with Section 151 CPC was dismissed. The land of petitioner was acquired for establishment of Military Cantonment at Bathinda on 20.1.1975 and the competent authority assessed the market value of the acquired land vide award dated 6.3.1975. The decree holder along with other claimants was not satisfied with the award of the competent authority and sought reference. Accordingly, Mr.M.S.Ahluwalia, Additional District Judge, Bathinda, was appointed as Arbitrator, who determined the market value of the land vide order dated 7.6.1985. Petitioner had taken plea before the Court below that

his land falls within the second category and he was entitled for compensation at the rate of ₹ 16/- per square yard and an amount of ₹ 13,42,501.55 was due to the decree holder towards the judgment debtor but that payment has not been made.

Judgment Debtor contested the application on the ground that claim/execution petition is time barred. No interest is payable on solatium. The decree holder was paid compensation at the rate of ₹ 8.50 per square yard as per award of the arbitrator and nothing balance is payable.

On these facts, the Court below settled issues and after recording the evidence, dismissed the application with the findings that the decree holder failed to prove that his land falls within the radius of 500 meters of fencing of cantonment. More so, the decree holder has already received the amount to which he was entitled. Present petition is challenge to the said order.

Learned counsel for the petitioner submitted that as per order of this Court dated 3.1.1989, present petitioner was entitled to recover the amount along with interest at the rate of ₹ 16/- per square yard for the acquired land. The evidence is available on the file that the land of petitioner falls within the radius of 500 meters of fencing of cantonment but the Court below completely ignored the same. It had come on the file that the land abuts the Bathinda-Dhobiana passage shown as A to B in map Ex.DHW2/B.

While arguing on this point, learned counsel for the respondent submitted that case of the petitioner falls under blue

category (as shown in the map) and for that purpose, petitioner was entitled to compensation at the rate of ₹ 8.50 per square yard and the payment has already been made to him long time back. Even at that time, no objection was raised that petitioner was not satisfied with the awarded amount nor the payment was received reserving any right to challenge the same and the Court below has correctly recorded the findings and the present petition be dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that the land was requisitioned on 7.10.1972. The Collector made assessment on 6.3.1975. The owners were not satisfied with the decision of the arbitrator and they had filed FAO No. 423 of 1984 before this Court. This Court modified the description as under:

(i)	For the land situated on either side of national highway leading from Bathinda to Barnala up to depth of 500 meters	@ ₹ 16.80 per square yard
(ii)	For the land up to a depth of 500 meters from the municipal limits/fencing of the cantonment or from the boundary of 3 rd phase of Urban Estate, Bathinda	@ ₹ 16 per square yard
(iii)	For the rest of the acquired land	@ ₹ 8.50 per square yard

The Court below has rightly taken the view that Union of India has deposited the entire payment in the year 1987 by calculating the rate of acquired land as ₹ 8.50 per square yard. The amount was received by the decree holder without any objection. As such, he is

estopped from claiming compensation at the rate of ₹ 16.80 per square yard after 15 years of the receipt of compensation. More so, the adjoining land was acquired on 3.12.1974 and at the time of acquisition of the present land, there was no fencing by the side of land acquired and petitioner failed to prove that the land of decree holders fall up to the depth of 500 meters of either side of Bathinda-Barnala Highway nor the same falls into 500 meters of fencing of the Municipal Committee.

The Court below has already appreciated the entire evidence including the statement of DHW1 Lakhbir Singh, who had admitted in his cross-examination that land was acquired in the year 1975 and the Collector had assessed the value of the land at that time. More so, three sides of this land has already been acquired. DHW1 Lakhbir Singh admitted in his cross-examination that his father had received the amount and he was not in a position to produce any record that at that time payment was received with any objection or per-condition or reserving his right to recover additional amount. As per DHW2 Harnek Singh, the land does not fall within the radius of 500 meters from the fencing of cantonment. The Court below also appreciated the statement of judgment debtor, who had stated in so many words that as the land of the decree holder is surrounded by the land of which rate is ₹ 8.50 per square yard, present petitioner is also entitled to receive the amount of compensation at the rate of ₹ 8.50 per square yard. The said payment has already been received by the present petitioner way back without reserving any right and now he is not entitled to receive any amount. There is no illegality in the

**Civil Revision No. 5857 of 2014 And
Connected Petitions**

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impugned order dated 4.3.2014.

With the observations made above, all the four petitions are
dismissed being devoid of any merit.

**(Shekher Dhawan)
Judge**

March 22, 2016

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