

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10159 of 2016

Date of Decision: 23.5.2016

Rameshwar and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Vikram Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this 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 respondents to grant the compensation equal to the other landowners whose land has been acquired by the same notification.

2. Briefly stated, the facts necessary for adjudication of the instant petition as narrated therein may be noticed. Government of Haryana vide notification dated 5.3.1993 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 25.11.1993 under Section 6 of the Act acquired the

land of the petitioners measuring 290 bigha 10 biswas for extension of New Grain Market at Kasba Karnal, Tehsil and District Karnal. The award was passed on 15.7.1994 determining the market value at ₹ 3,00,000/- per acre of the land acquired. The petitioners filed reference under Section 18 of the Act. The reference Court vide award dated 30.9.1998 (Annexure P-2) dismissed all the 42 claim petitions and upheld the compensation as awarded by the Land Acquisition Collector. Against the award, Annexure P-2, the petitioners filed RFA No. 246 of 2000 for enhancement of compensation and this Court vide disposed of the said appeal in terms of the order dated 7.10.1999 passed in RFA No. 766 of 1999 whereby the said appeal was partly allowed and the claimants therein were held entitled to compensation @ ₹ 110/- per square yard. Thereafter, the similarly situated claimants whose land was acquired by the same acquisition proceedings filed LPA No. 303 of 2000 in RFA No. 768 of 1998 and also LPA No. 1365 of 2001 in RFA No. 170 of 1999 against the judgment dated 7.10.1999 in RFA No. 766 of 1999. LPA No. 303 of 2000 was allowed by this Court vide order dated 3.8.2005 (Annexure P-3) and the compensation of the acquired land was enhanced to ₹ 147.68 per square yard. The petitioners also filed LPA No. 154 of 2006 and this Court vide order dated 6.2.2007 dismissed the said appeal in view of the judgment in **Balbair Kaur v. Bhim Singh, 2005(1) PLR 848** and the SLP filed against the said judgment also stands dismissed. The petitioners moved a representation dated 14.12.2015 (Annexure P-4) to respondent No.2 for grant of compensation equal to the other land owners whose land has been acquired by the same notification, but to no effect. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the

respondents have wrongly rejected the claim of the petitioners for amount of compensation whereas the similarly situated persons have been awarded compensation of the land acquired. Reliance has been placed upon the judgment of Apex Court in **Samiyathal and others v. Spl. Tehsildar and others 2015(2) RCR (Civil) 441.**

4. After hearing learned counsel for the petitioners and perusing the averments made in the writ petition, we do not find any merit in the writ petition.

5. The petitioners had filed RFA No. 246 of 2000 for enhancement of compensation which was disposed of by this Court in terms of the judgment dated 7.10.1999 passed in RFA No. 766 of 1999 whereby the said appeal was partly allowed and the claimants therein were held entitled to compensation @ ₹ 110/- per square yard. Thereafter, the similarly situated claimants whose land was acquired by the same acquisition proceedings filed LPA No. 303 of 2000 in RFA No. 768 of 1998 and also LPA No. 1365 of 2001 in RFA No. 170 of 1999 against the judgment dated 7.10.1999 in RFA No. 766 of 1999. LPA No. 303 of 2000 was allowed by this Court vide order dated 3.8.2005 (Annexure P-3) and the compensation of the acquired land was enhanced to ₹ 147.68 per square yard. The petitioners also filed LPA No. 154 of 2006 and this Court vide order dated 6.2.2007 dismissed the said appeal in view of the judgment in **Balbir Kaur v. Bhim Singh, 2005(1) PLR 848** holding that the Letters Patent Appeal was not maintainable. It has further been stated in the petition that the SLP filed against the said judgment also stands dismissed. In such a situation, learned counsel for the petitioners was unable to justify how the claim of the petitioners after the dismissal of the LPA No. 154 of 2006 and the SLP is admissible on

the basis of the enhancement of compensation in the cases of other landowners who had pursued their cases on time and diligently. He could not refer to any statutory provision to substantiate the claim made in the petition except to rely upon the judgment of the Apex court in **Samiyathal's case (supra)**.

6. Adverting to the judgment of the Apex Court in **Samiyathal's case (supra)** relied upon by the learned counsel for the petitioners, suffice it to notice that the directions therein had been given in exercise of the power vested in the Supreme Court under Article 142 of the Constitution of India as clearly noticed and this would not be a precedent binding in the case of the petitioners.

7. In view of the above, finding no merit in the instant petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

May 23, 2016
gbs

(RAJ RAHUL GARG)
JUDGE