

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10238 of 2016

Date of Decision: 23.5.2016

Harmanpreet Singh 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?
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. Gurinder Pal Singh, 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 respondents to give equivalent land to them in exchange of their land owned and possessed by the respondent-department without acquisition of the same as per their decision vide Annexures P-2 to P-4, respectively or in the alternative direct the respondents to acquired the land of the petitioners and grant them compensation.
2. The petitioners were owners in possession of the land situated in village Chak Jiwan, Tehsil and District Sirsa. Initially the land in question was in the name of Mahender Singh and after his death on

24.9.2009, the same was inherited by his wives, namely, Surjeet Kaur and Gurmeet Kaur. After the death of Surjeet Kaur on 5.12.2013, the land was inherited by way of testamentary dispossession by her grandsons, i.e., petitioners No.1 and 2 who are owner of half share ($\frac{1}{4}$ each) whereas petitioner No.3 is owner of the remaining half share. In the early 1960s, the Government acquired 1000 acres of land of 5-6 villages including village Chak Jiwan. The land of village Chak Jiwan except 54 kanal 2 marlas, was acquired and the landowners were given compensation of the land at that time. The predecessors-in-interest as well as the petitioners continued to be owner in possession of that land and had been utilizing the same although its utility had diminished because it was surrounded by small bundhs etc. However, in 1980s-1990s the said bundhs were made bigger as a result the petitioners had to suffer lot of loss because many a times the area is flooded. The Government neither acquired the land in question nor paid the compensation for the particular piece of the land although the same was merged in the lake fully owned by the respondents. In the year 2005-06, the respondents decided to increase the capacity of Ottu Lake/Reservoir which is being used for irrigation purposes and the land of the petitioners which was taken over and made part of the lake was submerged in it. As per Article dated 14.4.2014 (Annexure P-1), the lake provided good wintering place for migratory birds and it was recommended to take effective measures for preserving and converting the water body into a bird sanctuary. Respondent No.2 in the year 2005-06 extended the capacity of Ottu Lake and a new dam was constructed replacing the earlier dam/bridge storing the water for irrigation purposes relating into totally submerging of the land of the petitioners. Respondent No.2

decided to exchange the land with the petitioners instead of acquiring the same and vide letter dated 30.4.2007, issued by the Executive Engineer, Ghaggar, Water Services Division, Sirsa asked for the evaluation of the land to respondent No.4. Thereafter, a committee was constituted on 8.5.2007 who vide report dated 20.8.2007 (Annexure P-2) recommended that in lieu of the land of the petitioners measuring 54 kanal 2 marlas of village Chak Jiwan, they be given 2/3rd of the land outside the bund. Respondent No.4 vide letter dated 27.8.2007 (Annexure P-3) forwarded the said report to the Department of Irrigation but no action was taken thereon. Respondent No.4 again sent a reminder dated 27.7.2009 (Annexure P-4) to the Department of Irrigation for taking necessary action, but to no effect. The predecessor-in-interest of the petitioners died and after his death, the mutations were entered in the names of the petitioners on 10.11.2014. Thereafter, the petitioners sent a representation dated 14.12.2015 (Annexure P-5) to the respondents for acquisition of their land situated in village Chak Jiwan or give them equivalent land as per decision of the department. Thereafter, respondent No.4 acknowledged the receipt of the said representation vide letter dated 31.12.2015 (Annexure P-6) and sent the same to the Department of Irrigation for further action. However, 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 representation dated 14.12.2015 (Annexure P-5) to the respondents, 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.4 to take a decision on the representation dated 14.12.2015 (Annexure P-5), 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

May 23, 2016
gbs

(RAJ RAHUL GARG)
JUDGE