

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1062 of 2016

Date of Decision: 14.3.2016

Atma Singh

....Petitioner.

Versus

State of Punjab 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 MR. JUSTICE RAJ MOHAN SINGH.**

PRESENT: Mr. R.S. Rangpuri, Advocate for the petitioner.

Ms. Sudeepti Sharma, DAG, Punjab.

Mr. K.S. Mamrat, Advocate for respondents No.3 and 4.

AJAY KUMAR MITTAL, J.

1. The petitioner through the instant petition filed under Articles 226/227 of the Constitution of India, has prayed for issuance of a writ in the nature of mandamus directing the respondents to roundup his acquired area to be counted as 8 kanals (one acre) for entitlement of plots/sites under the Land Pooling Scheme as his acquired area is in fraction more than 7.63 kanals and liable to be counted in the next upper category i.e. 8 kanals as per Land Pooling Policy dated 19.6.2013 (Annexure P-3). Further, a prayer has been made directing the respondents to allow the petitioner to opt out of the Land Pooling Scheme and allow him to get the amount of compensation of his

acquired land as per award dated 31.12.2013 (Annexure P-1).

2. The petitioner was owner of the agricultural land measuring 13 bighas 14 biswas, i.e. $2/6^{\text{th}}$ share of total land measuring 91.33 biswas situated within the revenue estate of village Mullanpur Garibdass, District SAS Nagar. The said land was acquired by the respondents vide notification dated 13.9.2013 for the development of Medi-City, Phase 2, Urban Estate, Mullanpur (called New Chandigarh), District SAS Nagar. The award was passed by respondent No.2 on 31.12.2013 (Annexure P-1). The respondent-department offered the landowners to opt for the Land Pooling Scheme, Annexure P-2, in lieu of their acquired land instead of compensation. The said Scheme was framed in view of the Land Pooling Policy dated 19.6.2013 (Annexure P-3). The petitioner vide his consent letter dated 4.1.2014 (Annexure P-4) opted for the Land Pooling Scheme. It was provided in the said policy that in case the area acquired for the Scheme is in fractions and if such fraction is more than the half of the unit, then the area acquired shall be counted in the next upper category and if the fraction of the area acquired is less than the half of the unit, it shall be counted in lower category for the purposes of the entitlement of the plots/sites under the Land Pooling Scheme. Since the acquired land of the petitioner was about 7.63 kanals, i.e. 4 bigha and 11.33 biswas, therefore, the same was liable to be rounded up to 8 kanals for the purposes of Land Pooling Scheme. The petitioner vide letter dated 24.1.2014 (Annexure P-5) had made the offer to the respondents to deposit the payment of fractionally less area to round up her acquired area upto 8 kanals. Despite his request, the respondents have not rounded up his area upto 8 kanals and proceeded to issue five Letters of Intent (LOIs) dated 26.3.2015 (Annexures P-6 to P-10,

respectively) for three residential plots of standard sizes of 500, 300 and 200 square yards and also for two commercial shops of 60 square yards each in his name. On receipt of the LOIs, the petitioner requested respondent No.2 to allow him to change the option of the Land Pooling Scheme and allow him to get the compensation as awarded by respondent No.2. The respondents have flatly refused to entertain the request of the petitioner. Thereafter, the petitioner served a demand notice dated 24.12.2015 (Annexure P-11) upon the respondents for rounding up his land to complete it in 8 kanals for the purpose of Land Pooling Scheme or allow him to opt out of the Land Pooling Scheme, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a demand notice dated 24.12.2015 (Annexure P-11) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the parties, 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 24.12.2015 (Annexure P-11), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 14, 2016
gbs

(RAJ MOHAN SINGH)
JUDGE