

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.10684 of 2016

Date of decision: 26.05.2016

Shri Charan Dass and another

.....Petitioners

vs.

Union of India and others

.....Respondents

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

1. Whether Reporters of 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?

Present: Mr. Anshul Jain, Advocate for Mr. Amar Vivek, Advocate,
for the petitioners.

Ajay Kumar Mittal,J.

1. The petitioners pray for quashing the impugned order dated 2.7.2015/18.8.2015, Annexure P.10 whereby the representation dated 5.10.2014, Annexure P.8 submitted by the petitioners for release of their land from acquisition was rejected. Further prayer has been made for quashing the impugned notifications dated 19.3.1999 and 23.3.1999 and the award dated 18.1.2000, Annexures P.4, P.5 and P.7 respectively having been lapsed under

section 24(2) of the Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, “the 2013 Act”). The petitioners have also prayed for restoring the possession of the land to them and to award damages to them.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners are husband and wife having two daughters and three sons. All of them have been settled at Chandigarh and are unemployed. They have been living with the petitioners in their residential house built over an area of seven and a half marlas in Village Behlana, Chandigarh which stood acquired and they were illegally dispossessed therefrom. Petitioner Charan Dass belongs to non-proprietary class of Village Ram Tatwali, District Hoshiarpur. In the year 1963, he joined Indian Air Force and remained posted at different stations including Leh in India. The petitioners settled down at Chandigarh with effect from 20.10.1997 and meanwhile due to impending retirement, they constructed the house in question. The only source of income of the petitioners has been the source of salary from the Air Force. Out of the savings, the petitioners purchased five marlas of land vide sale deed dated 29.7.1997, Annexure P.1 and another two and a half marlas land through power of attorney dated 12.3.1998, Annexure P.2 on which they constructed a house comprising of two bed rooms, one kitchen, one store and one drawing room in which they have been living all together since January 1998. Vide notification issued under section 7(i) of the Requisitioning and Acquisition of Immoveable Property Act, 1952, the Government acquired a part of land in Village Behlana, Chandigarh, Hadbast No.231 including the land of Lajya alias Lajju son of Krishan for defence purposes. Thereafter, the Chandigarh Administration issued another notification dated 19.3.1999, Annexure P.4 under section 4 of the Land Acquisition Act, 1894 (in short, “the 1894 Act”) invoking urgency provisions

under section 17 of the Act seeking to acquire about 33 acres of land in Village Behlana including the land on which house of the petitioners was standing, for defence and security purposes. Subsequently, notification under section 6 of the 1894 Act was issued. According to the petitioners, no separate orders had been passed by the appropriate government exempting applicability of Section 5A of the 1894 Act to the said notifications. The petitioners filed representation dated 6.1.2000, Annexure P.6 to the authorities that the house in question being the only source of their shelter be exempted from acquisition. The Land Acquisition Collector without issuing any notice under section 9 of the 1894 Act to the petitioners passed award dated 18.1.2000, Annexure P.7 in respect of the acquired land including the land of the petitioners. The Collector did not award any compensation for house/structures of the petitioners by observing that the construction of the house by the petitioners was unauthorized. The Collector awarded a meager sum of ₹ 6.87 lacs per acre as compensation for the land only. According to the petitioners, they have not been paid any compensation till date. Aggrieved thereby, the petitioners filed CWP No.15300 of 2000 in this court which was dismissed on 11.5.2012. Even the review petition was also dismissed. Thereafter, the petitioners were dispossessed and their house was demolished. The petitioners approached the Apex Court. The petitioners were allowed by the Apex Court to file second review petition before this court which was allowed but the main writ petition was dismissed by this Court. According to the petitioners, due to enactment of the 2013 Act, a right has accrued to them as they have not been paid compensation and a period of more than five years prior to 1.1.2014 after the passing of the award dated 18.1.2000 has already expired on the date of applicability of the 2013 Act. Aggrieved by the action of the respondents, the petitioners for the third time filed CWP No.3699 of 2015 in this Court for setting

possession of the land to them. The said writ petition was disposed of vide order dated 17.3.2015, Annexure P.9 with a direction to respondent No.1 to take a decision on the representation of the petitioners dated 5.10.2014, Annexure P.8 in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of four months. It was also clarified that till the matter is decided by the concerned authorities, status quo be maintained by the parties. Vide order dated 2.7.2015, Annexure P.10, respondent No.1 informed the petitioners that the acquisition was done strictly in accordance with the provisions of the 1894 Act. The writ petition and the review petition filed by them were dismissed by this court and hence the prayer for release of their land cannot be acceded to. It was further directed to the petitioners to take amount of compensation within 10 days failing which the same would be deposited with the District Court. Hence the instant writ petition.

3. We have heard learned counsel for the petitioners.

4. A perusal of the order dated 2.7.2015/18.8.2015. Annexure P.10 passed by the Deputy Commissioner, Chandigarh shows that pursuant to the order dated 17.3.2015 passed by this Court, opportunity of hearing was granted to the petitioners. After examining the matter and hearing the petitioners, it has been categorically recorded in the impugned order that the acquisition was done strictly in accordance with law as the land was required under urgency clause i.e. Section 17(4) of the 1894 Act. The compensation was offered to the land owners by the Land Acquisition Officer, Chandigarh after the announcement of the award. Majority of the land owners have already received the compensation. The petitioners did not accept the compensation and filed CWP No.15300 of 2000 in this Court which was dismissed and even the review petition was also dismissed.

Thereafter, the possession of the land and structure had been taken on 15.6.2012

relevant part of the order passed by the Deputy Commissioner reads thus:-

“As the land was acquired under urgency clause 17(4) of the Land Acquisition Act, 1894, the compensation of land was offered to the land owners by the Land Acquisition Officer. UT, Chandigarh after announcement of award. The compensation was disbursed to the land owners as per the revenue record of Village Behlana, UT Chandigarh. Majority of land owners have already taken the compensation of their acquired land. The acquisition was done strictly in accordance with provisions of Land Acquisition Act, 1894 and due procedure was followed. However, Shri Charan Dass son of Shri Saradhu Ram and Sharda Devi W/o Shri Charan Dass did not accept the compensation and protested the acquisition of their land before the Hon’ble High Court by filing CWP No.15300 of 2000 and Review Petition No.236 of 2011 (O&M) which were dismissed on 9.2.2012 and 11.5.2012 respectively. After dismissal of above said petition and review petition, possession of petitioners’ land and structure has been taken on 15.6.2012 by the Administration and handed over to the CRPF authorities.”

5. Learned counsel for the petitioners has not been able to produce any material to show that the impugned order passed by the Deputy Commissioner is erroneous. Thus, even the claim of the petitioners under section 24(2) of the 2013 Act cannot be accepted as majority of the land owners had received the compensation. Even the possession was handed over to the CRPF authorities. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 26, 2016
‘gs’

(Raj Rahul Garg)
Judge