

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 2072 of 2016

Date of Decision: 05.05.2016

Vijay Pal Singh and Others

... Petitioner(s)

Versus

The State of Punjab and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Ajay Kumar Mittal.
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. B.S.Sidhu, Advocate
for the petitioner(s).

Ms. Sudeepti Sharma, Deputy Advocate General,
Punjab for the respondent(s).

Shekher Dhawan, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of writ in the nature of certiorari for setting aside order dated 2.9.2014, passed by respondent No.4, which is illegal, erroneous and against the provisions of Land Acquisition Act, 1894 (hereinafter referred to as "the Act").

Relevant facts of the case are that petitioners are owners of land comprising rectangle No. 101, khasra Nos. 3, 4, 5/1, 6, 7 & 8

besides other land as per jamabandi for the year 1993-94 situated in the area of village Chak Jawahare Wala, Tehsil & District Sri Muktsar Sahib. The petitioners had dug a small drain about 3 feet in depth and 7 feet width from below and 10 feet at the top in the above said land. The respondents, without serving any notice or payment of any compensation, had threatened to dig a drain over the said land. Petitioners had filed civil suit for permanent injunction on 12.6.1996, which was dismissed vide judgment & decree dated 20.12.1999, passed by learned Civil Judge (Junior Division), Muktsar. Petitioner filed appeal and the same was dismissed by learned Additional District Judge, Muktsar on 11.5.2002.

As per petitioners, vide letter dated 11.6.2004, petitioner No.1 was asked to contact Land Acquisition Collector, Patiala (hereinafter referred to as "the Collector") and he personally visited the office of the Collector. Subsequently, vide letter No. 1051 dated 23.12.2004, petitioners were informed that no compensation was to be awarded as the land was not acquired. Despite submissions of repeated representations, the case of petitioners was not considered. Petitioners filed a writ petition bearing No. 8074 of 2005 in this Court and the same was disposed of vide order dated 7.4.2014. In response to the directions given by this Court, the respondents considered the claim of the petitioners and rejected the same vide order dated 2.9.2014.

Petitioners' main contention is that they have been denied compensation, though they had never given their land voluntarily to the department. Rather the respondents had entered the land of the

petitioners forcibly in the month of June, 1996 and subsequently, civil suit for permanent injunction was filed.

Learned counsel for the petitioners submitted that the petitioners have not been awarded any compensation as per law.

Learned State counsel submitted that petitioners have no case because they remained unsuccessful in the civil suit and appeal filed by them was also dismissed. The land was acquired long back and street thereon was constructed and the writ petition is without any merit and the same be dismissed.

Having considered the submissions made by learned counsel for the parties, admittedly the possession over the land was taken by the respondent-State for construction of street without any objection from the petitioners. Thereafter, petitioners had availed legal remedy by way of filing of civil suit and the same was dismissed. Thereafter, first appeal was also decided against the petitioners. No such objection was raised by the petitioners when the drain was constructed. These facts establish that the version of respondent-State is correct that the land was actually given voluntarily by the petitioners. Thus, the petitioners are not entitled to any compensation at this stage.

Consequently, present writ petition is without any merit and the same stands dismissed.

(Ajay Kumar Mittal)
Judge

(Shekher Dhawan)
Judge

May 05, 2016
"DK"