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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3244-2015 [O&M]

Date of Decision : May 04, 2016

Gian Kaur and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

1. Whether Reporters of 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?

Present Mr. P.L.Singla, Advocate,
for the petitioners.

Ms. Sudeepti Sharma, DAG, Punjab.

Mr. S.S.Bedi, Advocate,
for respondent No.3.

SHEKHER DHAWAN, J.

Prayer in this petition, filed under Article 226/227 of the Constitution of India, is for issuance of a writ of mandamus directing the respondents to award compensation as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [for short, "the 2013 Act"] on the ground that the land of the petitioners was acquired for the establishment of marketing yard at village Harike without payment of compensation and the possession has been taken over.

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2. Relevant facts for the purpose of decision of the present petition; that Jagtar Singh, predecessor-in-interest of the petitioners, was the owner in possession of the land measuring 6 Kanals 14 Marlas i.e., 1/3rd share of the land measuring 20 Kanals 2 Marlas situated in village Harike, Tehsil Patti, District Taran-Tarn. Jagtar Singh died on 20.03.1998 and the land owned by him was mutated in favour of his successors, who are petitioners No.1 to 3 in this writ petition. Notification under Section 4 of the Land Acquisition Act, 1894 [for short, "the LAC Act"] was published on 13.07.2000 and notification under Section 6 of the LAC Act was published on 19.10.2000. According to the petitioners, the award was passed on 19.5.2001 in the name of Jagtar Singh, who had died on 20.03.1998 i.e., much prior to the issuance of notification under Section 4 of the LAC Act. As such, the proceedings for the acquisition of the land in question and passing of award against a dead person vitiates all the acquisition proceedings and the award passed is nullity. More so, the land was acquired without payment of compensation, though possession of the land was taken illegally.

3. We have heard learned counsel for the parties and perused the record.

4. As per averments in the petition, the land was acquired on the basis of notification published under Section 4 of the LAC Act on 13.07.2000 and the present petition has been filed in the year 2015 i.e., after an inordinate long delay of fifteen years. The petitioners kept quiet for so many years. Possession of the land has been taken long back. They remained silent for the last 15 years though, no compensation was paid to the petitioners.

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5. In **Leelawanti and others vs. State of Haryana and others**, (2012) 1 SCC 66, in similar situation wherein, the land acquired in 1976 was sought to be returned by sending a legal notice in the year 1999, the Apex Court repelled the argument of the petitioners in view of the principles of delay and laches while upholding the judgment dated 21.1.2008, passed by a Division Bench of this Court in CWP No.9152 of 2007 titled **Leelawanti vs. State of Haryana**. The relevant observations on the issue of delay and laches are as under:-

“13. We have considered the respective submissions and examined the records. In our view, the High Court did not commit any error by not entertaining the appellants' challenge to the acquisition of land because they did not offer any explanation for the long time gap of more than three decades between the issue of notifications under sections 4 and 6 i.e. 1976 and filing of the writ petition i.e. 2007.”

6. As per the plea taken by learned State counsel, in case of Jagtar Singh or his legal heirs, notice under Section 12 of the LAC Act dated 14.11.2002, 1.7.2004 and 7.9.2006 were issued so as to come present in the office of Collector, but none of the petitioners had come present to collect the payment. More so, all the land owners, except for the petitioners, have received the amount of their compensation and possession of the said land had been admittedly taken by the respondents. As such, provisions of Section 24 of the 2013 Act shall not be applicable in the present case.

7. As per provisions of Section 24 and proviso appended to Section 24(2) of the 2013 Act, if the award has been pronounced and compensation in respect of majority of land holdings has not been deposited in the account of the beneficiaries, then all the beneficiaries

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specified in the notification for acquisition under Section 4 of the LAC Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. The relevant proviso is as under:-

“24. Land Acquisition Process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases :-

(1). xx xx xx

(2). xx xx xx

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

8. Admittedly, in this case, all the beneficiaries, except the successors of Jagtar Singh, have already received compensation and as such, the provisions of Section 24 of the 2013 Act are not attracted in the present case. More so, petitioners No.1 to 3, i.e. LRs of Jagtar Singh were issued notices under Section 12 of the LAC Act, dated 14.11.2002, 1.7.2004 and 7.9.2006 to collect the payment but, they did not turn up. In the present case, a stale claim is sought to be raked up by way of present petition. In view of the above, the claim of petitioners cannot be considered. However, the petitioners shall be entitled to receive the compensation from the respondents in terms of award dated 19.05.2001 if not already received by them so far.

9. Accordingly, finding no merit in the petition, the present petition stands dismissed. The original record, produced today, be returned to the

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concerned official against proper receipt.

(AJAY KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

May 04, 2016
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