

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3812 of 2016

Date of Decision: 26.2.2016

Kamaljit Kaur

....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 HARINDER SINGH SIDHU.**

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

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 her acquired area to be counted as 4 kanals for entitlement of plots/sites under the Land Pooling Scheme as her acquired area is in fraction more than 3.5 kanals and liable to be counted in the next upper category i.e. 4 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 her to get the amount of compensation of her acquired land as per award dated 31.12.2013 (Annexure P-1).

2. The petitioner was owner of the agricultural land measuring 2 bighas 3.16 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 her consent letter dated 13.5.2014 (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 3 kanal 11.66 marlas, i.e. 2 bigha and 3.16 biswas, therefore, the same was liable to be rounded up to 4 kanals for the purposes of Land Pooling Scheme. The petitioner had made the offer to the respondents to deposit the payment of fractionally less area to round up her acquired area upto 4 kanals. Despite her request, the respondents have not rounded up her area upto 4 kanals and proceeded to issue one Letter of Intent (LOI) dated 10.11.2014 (Annexure P-5) for a residential plot of 450 square yards in her name. On receipt of the LOI, the petitioner vide letter dated 19.2.2015 (Annexure P-6) requested

respondent No.2 to allow her to change the option of the Land Pooling Scheme and allow her 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 20.1.2016 (Annexure P-7) upon the respondents for rounding up her land to complete it in 4 kanals for the purpose of Land Pooling Scheme or allow her 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 20.1.2016 (Annexure P-7) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, 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 20.1.2016 (Annexure P-7), 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

February 26, 2016
gbs

(HARINDER SINGH SIDHU)
JUDGE