

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4865 of 2016

Date of Decision: 15.3.2016

Shri Om Parkash Sukhija and others

....Petitioners.

Versus

State of Haryana and another

...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. P.S. Rana, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ of mandamus directing respondent No.2 to send the reference under Section 18 of the Land Acquisition Act, 1894 (in short "the Act") to the competent civil court for enhancement of compensation along with the compulsory acquisition charges and interest on the aforesaid amount at the rate of 12% p.a. as demanded vide demand notice dated 28.1.2016 (Annexure P-5).

2. One Smt. Thakri wife of Shri Bhagwan Dass Sukhija was owner of the land measuring 4 bigha 2 biswa situated in Kasba Karnal to the extent of 1/2 share of the land measuring 8 bigha 4 biswa. She died

on 27.2.2013 and the petitioners being her legal heirs have inherited her estate. Government of Haryana vide notification dated 13.1.1981 issued under Section 4 of the Act followed by notification dated 12.12.1983 under Section 6 of the Act acquired the said land. The award was passed on 28.3.1985 assessing the market value of the land as ₹ 1,00,000/- per acre. The compensation of the acquired land was received under protest vide cheque dated 9.4.1985. Since the amount of compensation paid was not just and proper, as such Smt. Thakri Bai moved an application dated 17.4.1985 (Annexure P-1) under Section 18 of the Act for making a reference to the competent civil court against the award dated 28.3.1985 which was received by respondent No.2 vide receipt dated 23.4.1985. Petitioner No.3 requested respondent No.2 vide registered letter dated 7.10.2013 for release of the acquired land as the same having not been utilized and being vacant and she was also ready to refund the amount of compensation. Petitioner No.3 moved an application dated 6.5.2015 seeking information under Right to Information Act, 2005 as to on which date and in which court reference was made to civil court at Karnal, but to no effect. Thereafter, she sent a reminder dated 27.5.2015 (Annexure P-3). In pursuance thereto, respondent No.2 vide letter dated 13.1.2016 (Annexure P-4) informed the petitioners that the said information could not be supplied as the record has been burnt on 6.6.2014 due to sudden fire in the record room. Thereafter, the petitioners sent a demand notice dated 28.1.2016 (Annexure P-5) to respondent No.2 for making reference under Section 18 of the Act to the competent civil court for the enhancement of compensation along with the compulsory acquisition charges and interest on the aforesaid amount at the rate of 12% per annum, but no

response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have moved an application dated 17.4.1985 (Annexure P-1) followed by the demand notice dated 28.1.2016 (Annexure P-5) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, 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 decide the application dated 17.4.1985 (Annexure P-1) followed by the demand notice dated 28.1.2016 (Annexure P-5) filed by the petitioners, in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 15, 2016
gbs

(RAJ MOHAN SINGH)
JUDGE