

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5303 of 2016

Date of Decision: 21.3.2016

M/s Anjuman Imdad Bahmi Kufait Showari Bachat-We-Kar (Cooperative Thrift and Credit Society), Pathankot.

....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 MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Banni Thomas, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus directing the respondents to refund the amount of ₹ 1,12,86,901/- to the petitioner along with interest at the rate of 18% per annum from the date as directed by Sub Divisional Magistrate-cum-Land Acquisition Collector, Pathankot vide order dated 17.9.2009 or in the alternative to release its land. Further, prayer has been made directing the respondents to decide the legal notice dated 12.12.2014 (Annexure P-4) sent by the petitioner.

2. The land measuring 12 kanal 12 marlas was purchased in

the name of the society and later on, 49 houses were constructed on the said land for its member in the colony, namely, Hari Nagar Reclamation Colony, Pathankot. On 31.7.1976, respondent No.2 issued notices to all the 49 owners of the houses in Form-A for requisitioning the property for being used for immoral trafficking in women. After requisition, respondent No.2 directed that the houses be allotted to the landless/ houseless persons belonging to backward and weaker sections on monthly rent of ₹ 15/-. The monthly rent of ₹ 15/- was reduced to ₹ 5/- per month by respondent No.2 vide order dated 13.3.1987. The said amount was received under protest. However, after a period of twelve years of the requisitioning of the property, when no orders were being passed to further requisition it or de-requisition it and the property was not being used for the purpose it was requisitioned, the petitioner filed a petition before respondent No.2 on 28.7.1988 under Sections 6 and 6A of the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (in short "the Act") for release of the property from requisition and for delivery of its vacant possession or in the alternative for its acquisition under the Land Acquisition Act, 1894. When no action was taken thereon, the petitioner filed CWP No. 9861 of 1990 and this Court vide order dated 25.7.1990 directed respondent No.2 to decide the petition of the petitioner by passing a speaking order in accordance with law. In pursuance thereto, respondent No.2 vide order dated 1.10.1990 de-requisitioned the said property and directed respondent No.3 to handover the vacant possession of the property to the petitioner and also to make the payment of rent upto the date of delivery of the possession. Thereafter, the petitioner moved an application under Section 8(1)(C) of the Act for appointing an arbitrator for determination of

the recurring annual compensation to the petitioner for the requisitioned property. When no action was taken thereon, the petitioner filed CWP No. 7784 of 1991 and this Court vide order dated 5.7.1993 (Annexure P-1) allowed the said petition. Thereafter, the petitioner filed claim petition under Section 8(1) of the Act before the Additional District Judge, Gurdaspur for determination of amount of compensation to the petitioner. The Additional District Judge, Gurdaspur, vide order dated 24.2.1996 (Annexure P-2) awarded compensation to the petitioner in the shape of rental value of the houses having been requisitioned by the respondents at the consolidated rate of ₹ 1525/- per month from the date of taking possession, i.e. 21.8.1976 upto the date of de-requisition, i.e., 1.10.1990 after adjusting the amount already paid on account of rent. Another award dated 20.8.1996 (Annexure P-3) was passed vide which the possession of the land measuring 12 kanal 12 marlas was handed over to the Punjab Schedule Caste Land Development and Finance Corporation and the amount of ₹ 1,12,86,901/- was awarded to the petitioner. However, no amount of compensation has been paid to the petitioner till date. Thereafter, the petitioner sent a legal notice dated 12.12.2014 (Annexure P-4) to respondents No.1 and 3 for release of the compensation amount or in the alternative to release the land, 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 legal notice dated 12.12.2014 (Annexure P-4) to respondents No.1 and 3, 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.3 to take a decision on the legal notice dated 12.12.2014 (Annexure P-4), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order. It is further directed that in case it is found that the petitioner is entitled to the amount, the same be paid to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

March 21, 2016
gbs

(RAJ RAHUL GARG)
JUDGE