

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5871 of 2016

Date of Decision: 30.3.2016

Nafe Singh

....Petitioner.

Versus

State of Haryana 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. Vikram Singh, Advocate for the petitioner.

**AJAY KUMAR MITTAL, J.**

1. In this writ 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 pay him the compensation for his land which had been used in making drain without acquiring the same and without paying any compensation. A further direction has been sought to be issued to the respondents either to acquire his land or to carve out the drain on the land of the petitioner reserved for drain. A prayer has also been made directing the respondents to decide the applications dated 9.2.2016 and 29.2.2016 (Annexures P-2 and P-3, respectively) within some specified time by

passing a speaking order.

2. The petitioner is owner of the land situated at village Dabkoli Kalan, Tehsil Indri, District Karnal as per jamabandi for the year 2011-12 (Annexure P-1). There was a drain in village Dabkoli Kalan, Tehsil Indri, District Karnal. Initially the alignment of the drain was from Northern side to Southern side. The land of the petitioner comprised in rectangle No. 19, killa Nos. 19 and 22 was situated towards the Western side of the said drain. The said drain had been duly reflected in the revenue record maintained by the Irrigation Department. In the year 1978, there was a heavy flood in village Dabkoli Kalan and other adjacent villages and due to that, the alignment of the said drain changed and it started flowing from Northern side to North-West side after the recession of the flood. It started flowing through the land of the petitioner comprised in khewat No. 64, khatauni No. 67, rectangle No.19, killa Nos. 19, 20 and 21. The land of the petitioner is situated on both the sides of the drain. The place on which the said drain was flowing prior to the year 1978 belonged to Irrigation Department and the Forest Department had placed safeda trees on the said land. The said drain is passing through the land of the petitioner since the year 1978, but no compensation has been paid to the petitioner till date by the Government and no scheme was prepared as because of flowing of water of the above said drain, the land measuring 11 kanal 13 marlas came under the said drain and the petitioner was not in a position to cultivate the said land since 1978. Due to non-cultivation of the said land, the petitioner has been suffering losses. As per the Northern India Canal and Drainage Act, 1973, it was necessary to consider the respective schemes to regulate the irrigation,

navigations and drainage for the disposal of the water and to provide the award of compensation to those persons whose rights may be effected by the action of the State Government under the Act *ibid*. Since, the petitioner had spent considerable amount to make the said land cultivable and due to non-cultivable of the said land, he was entitled to compensation at the rate of ₹ 50 lacs per acre besides use and occupation charges to be assessed by the competent authority. Accordingly, the petitioner moved an application dated 9.2.2016 (Annexure P-2) to respondents No.2, 3 and 5 for grant of compensation by acquiring his land or the drain be carved out from the land reserved for the drain and for handing over the land to him, but to no effect. Thereafter, the petitioner moved another application dated 29.2.2016 (Annexure P-3) for the similar relief to respondent No.4 and the Superintending Engineer, Yamuna Water Service Circle, Mall Road, Karnal, 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 moved an application dated 9.2.2016 (Annexure P-2) followed by another application dated 29.2.2016 (Annexure P-3) to respondents No.2 to 5, 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 applications dated 9.2.2016 and 29.2.2016 (Annexures P-2 and P-3, respectively), 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.

**(AJAY KUMAR MITTAL)**  
**JUDGE**

**March 30, 2016**  
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**(RAJ RAHUL GARG)**  
**JUDGE**