

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.6372 of 2016

Date of decision: 23.05.2016

**M/s BTS Engineering Works now Dhiman Engineering Works
Industrial Area, Bassi Pathana, District Fatehgarh Sahib through
its proprietor Barjinder Pal son of Sewa Nath, aged about 61
years resident of Mohalla Vadha Vehra, Bassi Pathana, District
Fatehgarh Sahib and another**

.....Petitioners

vs.

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? **YES**
3. Whether the judgment should be reported in the Digest?

Present: Mr. K.L.Kohli, Advocate for the petitioners.

Ajay Kumar Mittal,J.

1. The petitioners pray for quashing the orders dated 13.10.2014 and 29.1.2016 passed by respondent No.1, Annexures P.3 and P.6 respectively. They also pray for a writ in the nature of mandamus directing respondent No.1 to hear them and pass a fresh order in accordance with the direction given by this Court vide order dated 2.12.2013, Annexure P.2.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The erstwhile Pepsu State acquired land measuring 38 bighas 10 biswas for setting up a Central workshop for sewing machines at Bassi Pathana and on 18.8.1956 took and handed over its possession to respondent No.3. It agreed to give it a loan of ₹ 1,73,000/- to set up an industrial unit. Before the agreement to give the loan could be performed by the State, the State Reorganization Act, 1956 was enacted and it came into force on 1.11.1956 and thereunder, the State of Pepsu formed part of the new State of Punjab. The successor State of Punjab in March 1958 intimated to respondent No.3 that no loan would be disbursed to it. The farmers whose land was acquired came to this Court in CWP No.6414 of 1987 seeking cancellation of acquisition of the said land. Pursuant to the notice therein, respondent No.1 passed order dated 10.6.1988 denotifying the acquisition of the land. The said petition was dismissed as infructuous by order of this court dated 15.9.1988, Annexure P.1. Respondent No.3 filed CWP No.12874 of 1989 in this court impugning the order of respondent No.1 dated 10.6.1988 on the ground that the allotted land had been de-acquired and released in favour of the original owners without an opportunity of hearing to it. This Court vide order dated 2.12.2013, Annexure P.2 allowed the writ petition in part to the extent that the order dated 10.6.1988 is set aside with the direction to respondent No.1 to pass fresh order after hearing all the stake holders and the land owners in accordance with law. Respondent No.1 after hearing respondent No.3 passed fresh order dated 13.10.2014, Annexure P.3 maintaining its original order dated 10.6.1988. Respondent No.1 did not afford any

opportunity of hearing to the petitioners before passing the order dated 13.10.2014 although they are the stake holders and their names are duly mentioned in the said order of this court dated 2.12.2013, Annexure P.2 and also in the fresh order passed by respondent No.1 dated 13.10.2014, Annexure P.3. Thereafter, each of the petitioners approached respondent No.1 with representations dated 20.7.2015, Annexure P.4 that the order dated 13.10.2014 may be reviewed and the land with their working unit may be exempted from being taken back and allotted to them for their unit in the interest of justice. The petitioners also represented against denial of the right to be heard in person by respondent No.1 in accordance with the orders of this court dated 2.12.2013, Annexure P.2 before passing the order dated 13.10.2014. Respondent No.2 disposed of the representations dated 20.7.2015, Annexure P.5 by a common order dated 29.1.2016, Annexure P.6 that the matter being sub judice, the petitioners should wait for the decision of this Court. Hence the instant writ petition by the petitioners.

3. Learned counsel for the petitioners submitted that no opportunity of hearing was provided to them before passing the impugned order as directed by this Court vide order dated 2.12.2013. The petitioners are the stake holders and are in possession of the land for the last 42 years. Reliance was placed on judgment of the Apex Court in ***Collector of Land Acquisition and others vs. M/s Andaman Timber Industries and others***, (2016) 2 RCR (Civil) 212.

4. We have heard learned counsel for the petitioners.

5. Admittedly, the land measuring 38 bighas 10 biswas was acquired by the Erstwhile Pepsu State in the year 1956 for setting up a central workshop for sewing machines at Bassi Pathana. On 18.8.1956, possession of the land was given to respondent No.3 for the said purpose. A loan of ₹ 1,73,000/- was also agreed to be given to respondent No.3 for setting up the industrial unit. In the meantime, the State Reorganization Act, 1956 came into force on 1.11.1956 and under the said Act, new State of Punjab was formed. The successor State of Punjab intimated to respondent No.3 that no loan would be disbursed to it. The land owners whose land was acquired filed CWP No.6414 of 1987 for cancellation of acquisition of the said land. Pursuant to the notice, respondent No.1 passed order dated 10.6.1988 denotifying the acquisition of the land. Consequently, the writ petition was dismissed as infructuous vide order dated 15.9.1988, Annexure P.1. Aggrieved thereby, respondent No.3 filed CWP No.12874 of 1989 against the order dated 10.6.1988 on the ground that no opportunity of hearing was given to it before passing the order denotifying the acquisition and releasing the land in favour of the original land owners. Vide order dated 2.12.2013, Annexure P.2, the writ petition was allowed. The impugned order dated 10.6.1988 was set aside and direction was given to respondent No.1 to pass fresh order after hearing all the stake holders and the land owners in accordance with law. Accordingly, respondent No.1 after hearing respondent No.3 passed fresh order dated 13.10.2014, Annexure P.3, maintaining its original order dated 10.6.1988. Thereafter, the petitioners filed representation dated 20.7.2015, Annexure P.5 praying for reviewing of order dated 13.10.2014, Annexure P.3. Vide

order dated 29.1.2016, Annexure P.6 respondent No.2 disposed of the representation with the observation that the matter being sub judice, the petitioners should wait for the decision by this court.

6. It may be noticed that CWP No.154 of 2015 (***Shiv Inder Pal Kaur and others vs. State of Punjab and others***) filed by the land owners has already been dismissed by this Court vide order dated 28.3.2016 upholding the order of the State not to return the land to the land owners and that it would be handed over to the Deputy Commissioner, Patiala for its disposal. In the present case, M/s Vishwakarma Sewing Machines Industries to whom initially the land was allotted by the Government did not set up its industrial project. The petitioners claim to be in possession of the part of the land being alleged lessees of M/s Vishwakarma Sewing Machines Industries who have constructed their industrial units on the said land. Thus, at best they are the lessees of the original allottee of the land who have no right in the property which stood de-acquired. If they have any grievance, they can claim appropriate relief from M/s Vishwakarma Sewing Machines Industries in accordance with law. Moreover, the petitioners were never party in CWP No.12874 of 1989. In such circumstances, the petitioners cannot be held to be rightful stakeholders in the property in dispute. The judgment relied upon by the learned counsel for the petitioners in ***M/s Andaman Timber Industries's*** case (supra) being on different facts has no relevance to the present case. Thus, the petitioners cannot derive any advantage from the said decision.

7. In view of the above, no interference is called for in writ jurisdiction under Articles 226/227 of the Constitution of India. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 23, 2016
'gs'

(Raj Rahul Garg)
Judge