

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7509 of 2016

Date of Decision: 25.4.2016

Partibha and another

....Petitioners.

Versus

Land Acquisition Officer, Rohtak 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 DARSHAN SINGH.**

PRESENT: Mr. Shailendra Jain, Senior Advocate with
Mr. Sanjiv Gupta, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of Mandamus directing respondent No.1 to refer the application dated 19.1.2016 (Annexure P-8) under Section 30 of the Land Acquisition Act, 1894 (in short “the Act”) to the Principal Civil Court of Original Jurisdiction constituted under Section 3(d) of the Act and to deposit the amount of compensation under Section 31(2) of the Act.

2. As per the averments made in the writ petition, one Shri Karam Singh (father-in-law of petitioner No.1 and grandfather of petitioner No.2) was owner in possession of the agricultural land measuring 49 kanal 2 marlas situated in village Aterna, Tehsil and

District Sonapat, as per the jamabandi for the year 2003-04 (Annexure P-1). Said Shri Karam Singh executed a registered Will dated 16.8.2002 (Annexure P-2) qua his entire property and the land in question in favour of his only son, Shri Suresh (husband of petitioner No.1 and father of petitioner No.2) son of respondent No.3 and brothers of respondents No.4 to 7. Said Shri Suresh committed suicide on 6.6.2008 leaving behind the petitioners as his only legal heirs. On the basis of said registered Will, the petitioners applied for sanction of mutation in their favour before the revenue authorities who wrongly sanctioned the mutation (Annexure P-4 Colly) in favour of respondents No.3 to 7. The petitioners filed Civil Suit No. RT/502/9.9.2008 for declaration with consequential relief of permanent injunction claiming their right on the said land. However, the trial court vide judgment and decree dated 6.5.2014 (Annexure P-3) dismissed the said suit. Against the judgment and decree, Annexure P-3, the petitioners filed Civil Appeal No. 84 of 2014 and the lower appellate court vide judgment and decree dated 21.12.2015 (Annexure P-5) dismissed the appeal. Thereafter, the petitioners filed RSA No. 1184 of 2016 against the judgments and decrees (Annexures P-3 and P-5, respectively). This Court vide order dated 4.4.2016 directed the parties to maintain status quo with regard to possession of the suit property. However, a part of the land in question measuring 14 kanals was acquired by the State of Haryana vide notification dated 5.11.2012 issued under Section 4 of the Act. The award was passed on 13.4.2015 (Annexure P-6). The petitioners moved an application dated 21.4.2015 (Annexure P-7) before respondent No.1 for staying the disbursement of the amount of compensation due to the dispute between the parties. Thereafter, the petitioners moved an

application dated 19.1.2016 (Annexure P-8) under Section 30 of the Act to respondent No.1 for making reference to the Principal Civil Court of Original Jurisdiction, 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 19.1.2016 (Annexure P-8) to respondent No.1, 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.1 to take a decision on the application dated 19.1.2016 (Annexure P-8), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners and respondents No.3 to 7 within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

April 25, 2016
gbs

(DARSHAN SINGH)
JUDGE