

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7837 of 2016

Date of Decision: 19.5.2016

Newzealand East Mission

....Petitioner.

Versus

Union of India 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. B.R. Rana, Senior Advocate with
Mr. Gagandeep Rana, 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 respondent No.2 not to release the amount of compensation of the acquired land situated within the revenue estate of Kharar, Hadbast No. 184, District SAS Nagar (Mohali) to respondent No.3 during the pendency of the civil suit. Further, a direction has been sought to be issued to respondent No.2 to refer the dispute of entitlement of compensation amount to the Principal Civil Court of Original Jurisdiction as per Section 3-H of the National Highways Act, 1956 (in short "the Act").

2. The petitioner is owner of the land comprised in khasra

Nos.322(6-16), 322/1(3-4) situated in Kharar, District SAS Nagar (Mohali) as per the jamabandi for the year 1991-92 and had constructed a building thereon in the year 1918. The said building was occupied by the then Principal/Head Master of Christian High School, namely Mr. Hasler. Thereafter, the building was occupied by the successors of Mr. Hasler. Lateron, the said house was vacated and possession thereof was handed over to Mr. Inayat Masih, the Property Supervisor, Dioceses of Chandigarh, Church of North India, Ludhiana. After that the building in question was rented out to Shaheed Kanshi Ram College, Bhago Majra (hereinafter referred to as "the College") through its President Shri Shamsher Singh father of respondent No.3 to be used as Girl's hostel for its students. Besides this, some other premises of Christian High School were also let out to the said college by the Property Supervisor. After the demise of Shri Shamsher Singh, his son Rupinder Singh-respondent No.3 took over as the President of the College. The rent was being paid by the College through its Chairman or Principal. After some time, the College stopped payment of rent and the letters dated 5.8.2001 and 19.6.2002 were issued to the College for payment of arrears of rent. On enquiry, it was found that respondent No.3 had obtained a decree dated 17.4.1996 (Annexure P-1) from the trial court on the basis of adverse possession. Respondent No.3 also got mutation, Annexure P-2, sanctioned in his favour on the basis of the decree, Annexure P-1. The petitioner filed a civil suit on 28.2.2005 (Annexure P-3) challenging the judgment and decree dated 17.4.1996, Annexure P-1. The land in question was acquired by the respondents vide notification dated 2.2.2015 issued under Section 3A(1) of the Act followed by notification dated 10.8.2015 under Section 3(d) of the Act for widening, four laning

etc., maintenance, management and operation of National Highway No.5 (New) from KM 0.0000 to KM 20.300, Ludhiana Chandigarh Section. The award was passed by respondent No.2 on 20.10.2015 (Annexure P-4). The petitioner made a representation dated 2.3.2016 (Annexure P-5) to respondent No.2 for withholding of compensation of the land comprised in khasra Nos. 322/1 and 33 situated at Kharar, but to no effect. Thereafter, the petitioner sent another representation dated 5.4.2016 (Annexure P-6) to respondent No.2 for the similar relief, 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 representations dated 2.3.2016 (Annexure P-5) and dated 5.4.2016 (Annexure P-6) to respondent No.2, 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 representations dated 2.3.2016 (Annexure P-5) and dated 5.4.2016 (Annexure P-6), 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

May 19, 2016
gbs

(RAJ RAHUL GARG)
JUDGE