

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8022 of 2016

Date of Decision: 29.4.2016

Mukhtiar Kaur

....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. JPS Sidhu, 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 interest @ 15% per annum on the delayed payment of compensation of ₹ 11,80,898/- of the acquired land measuring 76.66 marlas (0.4791 acres) which has been paid on 13.2.2015 after a delay of almost 5 years on filing of COCP No. 215 of 2015 in CWP No. 19210 of 2014. Further, a prayer has been made directing the respondents to pay the balance compensation amount of ₹ 53,807/- along with interest and to pay compensation for 5 trees which were on the land of the petitioner along

with other benefits as per award dated 25.3.2011 (Annexure P-2).

2. Respondent No.1 issued notifications dated 15.10.2010 and 17.1.2011 under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 4.1.2011 under Section 6 of the Act for acquisition of land of village Gobindpura and nearby villages, District Mansa including the land of the petitioner for setting up of Peona Power Thermal Plant at village Gobindpura, District Mansa. The petitioner filed objections under Section 5-A of the Act which were rejected. The award dated 25.3.2011 (Annexure P-2) was passed by respondent No.3. The land measuring 76.66 marlas of deceased Roop Singh husband of the petitioner was acquired in the year 2011. When the petitioner was not paid the amount of compensation, she moved a representation dated 13.5.2011 (Annexure P-3) to respondent No.3 for release of compensation, but to no effect. The mutation of inheritance dated 11.9.2012 of deceased Roop Singh was entered in the name of the petitioner being the widow of Roop Singh to the extent of 264/2791 share of the total land measuring 149 kanal 11 marlas. The said mutation was challenged by the brother and sister of deceased Roop Singh which had been dismissed in appeal by respondent No.2 vide order dated 13.2.2013 (Annexure P-4). Thereafter, the petitioner sent a representation dated 13.9.2013 (Annexure P-5) to respondent No.3 for release of compensation amount, but in vain. Accordingly, the petitioner filed CWP No. 19210 of 2014 for deciding her claim and this Court vide order dated 16.9.2014 (Annexure P-6) disposed of the said writ petition directing respondent No.3 to consider the representation of the petitioner. The petitioner again moved a representation dated 5.10.2014 (Annexure P-7) before the respondents for release of the compensation

along with interest, but to no avail. Thereafter, the petitioner filed COCP No. 215 of 2015 and the respondents filed reply dated 4.11.2014 (Annexure P-8). However, respondent No.3 vide order dated 31.12.2015 (Annexure P-9) released the compensation amounting to ₹ 11,80,898/- vide cheques dated 13.2.2015. The respondents had also withheld the balance amount of compensation of ₹ 53,807/-. The petitioner moved a representation dated 13.1.2016 (Annexure P-10) for the payment of interest on the compensation amount, but to no effect. Thereafter, the petitioner served a legal notice dated 17.2.2016 (Annexure P-11) to the respondents, but no response has been received. The State Government had made a policy dated 8.11.2011 (Annexure P-12) to give compassionate appointment to one family member against the land acquired and on 3.3.2014, conditions had been changed that only those persons would be given Government job whose two acres of land had been acquired. More than two acres of land of the petitioner had been acquired but payment of compensation of share of land of the petitioner was delayed due to which her son was not able to get the Government job and now only the part payment of compensation had been released without interest. One similarly placed person, namely, Babu Singh who had not been granted the compensation for acquisition of his 330 marlas of land, had filed CWP No. 3837 of 2013 and in pursuance to the order of this Court dated 18.7.2013 (Annexure P-13), the respondents had given compensation to him of 37 marlas of land only. Thereafter he had filed COCP No. 3199 of 2013 and was granted compensation for 330 marlas of land. Similarly, CWP Nos. 7437, 14795 of 2014 and 11703 of 2015 were filed by similarly situated persons for the payment of compensation and this Court vide orders dated 23.4.2014 (Annexure P-

14), 30.7.2014 (Annexure P-15) and dated 28.5.2015 (Annexure P-16) disposed of the said writ petitions with a direction to the respondents to pass a speaking order regarding their claim and in case they were entitled to compensation, the same be paid to them along with interest and thereafter, they had been paid the compensation. However, when they were paid less compensation, they filed COCP No. 3423 of 2014 and the respondents filed reply dated 9.2.2015 (Annexure P-17) in COCP No. 3423 of 2014 and paid the amount of compensation. 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 representation dated 13.1.2016 (Annexure P-10) to respondents No.2 and 3 followed by the legal notice dated 17.2.2016 (Annexure P-11) to the respondents, 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 representation dated 13.1.2016 (Annexure P-10) followed by a legal notice dated 17.2.2016 (Annexure P-11), 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

April 29, 2016
gbs

(RAJ RAHUL GARG)
JUDGE