

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8194 of 2016

Date of Decision: 17.5.2016

Hans Raj and others

....Petitioners.

Versus

The Principal Secretary, Department of Irrigation 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. CM Munjal, Advocate for the petitioners.

**AJAY KUMAR MITTAL, J.**

1. In this writ 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 the respondents to make the compensation of the acquired land after issuance of necessary notifications and passing of award as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "2013 Act")

2. The petitioners are owners in possession of the land situated at village Dabwala Kalan, Tehsil and District Fazilka as per jamabandies, Annexures P-1 to P-13, respectively. A canal, namely, Arniwala Distributory is passing through the northern side of the land of

the petitioners and the said minor was constructed about 35 to 40 years back. In the year 2004, the respondents started widening of the said Arniwala Distributory towards the side where the land of the petitioners was situated and wanted to grab their land without acquisition. Since the respondents never acquired the land nor paid any compensation, some of the petitioners requested them not to encroach upon their land and if they required the land for widening of Arniwala Distributory, then they could take recourse of acquisition of the land. When no heed was paid to the request of the petitioners, they filed civil suit for permanent injunction against the respondents. The respondents filed written statement by taking a preliminary objection to the effect that the defendants-respondents were not going to take possession of any piece of land of any of the petitioners. Accordingly, the trial court vide order dated 26.2.2011 dismissed the suit as withdrawn on the statement made by the plaintiffs. When the widening was complete, the petitioners came to know that their land to the extent of three karam in every killa has been taken over by the Canal Department as they neither acquired the land nor made any compensation. In the year 2009, the petitioners got the demarcation done from the revenue department wherein it was found that the land to the extent of three karams each in every killa belonging to the petitioners had come under the Arniwala Distributory. Thereafter, the petitioners met the Executive Engineer and Sub Divisional Officer and showed them the demarcation report, who assured that they would take up the matter with the higher authorities and will do the needful. The petitioners made a representation dated 12.8.2011 (Annexure P-14) to the respondents for acquisition of the land in question and passing of the award, but to no effect. In March, 2016, the petitioners requested

the revenue official for conducting a demarcation at village Dabwala Kalan. The revenue official after conducting the demarcation submitted the demarcation report dated 30.3.2016 (Annexure P-15) mentioning therein that the land belongings to the petitioners to the extent of three karams in each killa come under the Arniwala Distributory. Thereafter, petitioner No.1 moved a representation dated 31.3.2016 (Annexure P-16) to the respondents for initiating acquisition proceedings for taking over the land of the petitioners for the construction of Arniwala Distributory and thereafter to make payment of the acquired land, but no response has been received. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have sent a representation dated 31.3.2016 (Annexure P-16) to the respondents, 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 representation dated 31.3.2016 (Annexure P-16), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of three months from the date of receipt of certified copy of the order.

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

**May 17, 2016**  
gbs

**(RAJ RAHUL GARG)**  
**JUDGE**