

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.10172 of 2015
Date of Decision: March 22, 2017

Raj Rani

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.S.K.Sharma Budhladawale, Advocate,
for the petitioner.

Mr.Yatinder Sharma, Addl.A.G.Punjab,
for the State.

AMIT RAWAL, J. (Oral)

The relief sought in the present writ petition is in the following
manner:-

“Petition under Article 226 of the Constitution of India, particularly in the nature of mandamus directing the respondent Nos.1 to 4 to hand over the vacant possession of the land of the petitioner measuring 2 Bighas and 9 Biswas constituting Khasra Nos.3728/2209 (0-4); 3730/2210 (0-17); 211 (1-8) grabbed/encroached by them without any authority of law, along with mesne profits as a compensation at the market rate in lieu of the crops since encroachment of the land till the vacant possession of the land is physically handed over to the petitioner; OR in the alternative, to respondents to give equal area of irrigated land of same quality in the vicinity to the petitioner alongwith the mesne profits for the period respondents made productive use of the land of the petitioner OR in the alternative, the respondents be directed to give to

pay compensation to the petitioner in respect of the encroached land at the prevailing actual market price alongwith the mesne profits till actual payment of the amount thus arrived at.”

To establish the aforementioned fact, reliance has been placed on the demarcation report (Annexure P-5), relevant portion of which reads thus:-

“I along with village patwari Halqa, Ladda is present at the spot along with the record and the equipment required for taking measurement. The patwari Halqa has already bounded the parties to be present. The parties and all the concerned persons are present at the spot. On behalf of the irrigation Department Shri Hakam Singh, Irrigation Patwari, Shri Som Nath Beldar and Shri Mool Chand, Beldar are present at the spot. Before taking measurements, the Jareeb was made error-free. Revenue record was perused. Again, from the landmarks, land of Khasra Nos.3728/2209 (0-4); 3730/2210 (0-17), 2211 (1-8), portions 3, area 2-9 was finally demarcated. This makes it clear that area of Khasra No.3728/2208 out of which sides E-25, W-25, N-3 S-3 area 0-4 and area out of Khasra No.3730/2210 sides E-50 W-50 5-2, N-3 area 0-6 and land out of Khasra No.2211-sides E-71; W-71 S-2 N-2 area 0-7 and thus total area measuring 0-17 has fallen in the reinforcement (Berm) of the watercourse. The Forest Department has grown trees on this land. As per the version of the General Public, earlier, the reinforcement (berm) of the watercourse was on the eastern side. As watercourse has been built, the area of these Khasra Nos.has been reduced. As is the position at the spot, out of Khasra No.2211. Northern side measures 9 Karams out of which 2 karams have been merged in the watercourse and the remaining area should measure 7 karams. However, only 5 karams of land is left free. Site plan Tawafat is enclosed in this regard. The measurement report is presented please.”

On perusal of the aforementioned demarcation report dated

30.5.2014, it has come on record that certain area measuring 0-17 has fallen in the reinforcement (berm) of the watercourse.

Since the petitioner has sought alternative relief of compensation, I am of the view that the writ petition can be disposed of with a direction to the respondents to treat the writ petition vis-a-vis the relief for grant of compensation as a representation as relief of possession, in view of the demarcation report, cannot come to the aid/help of the petitioner.

Mr.Yatinder Sharma, learned Addl.A.G.Punjab, representing the State submits that in case a direction is issued to treat the writ petition as a representation, a decision thereon shall be taken expeditiously.

Resultantly, the present writ petition is disposed of with a direction to the respondents to treat the writ petition as a representation for the purpose of only compensation in terms of money. The Secretary, Irrigation is directed to decide the aforementioned aspect by affording opportunity of hearing in an objective and pragmatic manner and pass a detailed order thereon. In case, the petitioner is found entitled to compensation, the same is ordered to be paid as expeditiously as possible. Let this exercise be done within a period of four months from the date of receipt of certified copy of this order.

March 22, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No