

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.19411 of 2016 (O&M)

Date of Decision: 10.5.2017

Devinder Kumar and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR.JUSTICE RAMENDRA JAIN

present:- Mr. Rajiv Sharma, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana
for the respondents.

RAMENDRA JAIN, J.

1. The similar earlier Civil Writ Petition No. 1785 of 2015 filed by the petitioners was disposed of vide order dated 30.4.2015 passed by a co-ordinate Bench by granting them liberty to file a detailed and comprehensive representation within two months before the appropriate authority, who shall decide the same within next four months by passing a speaking order after affording an opportunity of hearing to them. Consequently, the Chairperson-cum-Zonal Administrator HUDA-cum-Additional Director Urban Estate Gurgaon (respondent no.2), after affording an opportunity of hearing to the petitioners, dismissed their representation vide order dated 16.3.2016 (Annexure P-8).

2 Hence, by way of the instant writ petition, the petitioners have sought quashing of the aforesaid order dated 16.3.2016 (Annexure P-8)

passed by respondent no.2 and also for issuance of a writ of mandamus directing respondent no.2 to release their land measuring 01K-14M situated in village Jharsa, Tehsil and District Gurgaon under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the “2013 Act”) on the ground that though the aforesaid land of the petitioners was acquired for the development of Sector 32, Gurgaon, vide notification dated 27.8.1987 (Annexure P-1) under Section 4 of the Land Acquisition Act, 1894 (in short the “1894 Act”) followed by notification dated 25.8.1988 (Annexure P-2) under Section 6 of the 1894 Act, respectively, but the respondents did not take physical possession of the land of the petitioners till date inspite of elapsing of 26-27 years, nor the petitioners had been paid the entire compensation for which they were entitled to, as per the award dated 16.3.1989 (Annexure P-4) passed by the Land Acquisition Collector, Urban Estate, Haryana, Gurgaon (respondent no.3). As per the information obtained by the petitioners under the Right to Information Act, 2005, the father of the petitioners, namely, Ram Narain was entitled to a total amount of compensation of ₹7,56,773.84P. but he only received ₹6,62,577.71P. and, thus, the compensation amount received was short by ₹94,196.13P. In view of the above two counts that the balance compensation has not been paid to the father of the petitioners and the possession of the acquired land was not taken till date, the petitioners were entitled to release of their land under section 24(2) of the 2013 Act, inasmuch as, admittedly, they had raised constructions on the land in dispute. In support of their above contention, the petitioners have relied upon the written statement filed by the respondents in their earlier Civil

Writ Petition No.3341 of 1991 titled as “Laxmi Dass versus State of Haryana”, admitting the construction of four rooms, bath room and a boundary wall, raised by them in the land in dispute. It has also been contended that respondent no.2 has wrongly rejected the representation of the petitioners vide order dated 16.3.2016 (Annexure P-8).

3. Learned State counsel contended that out of a total compensation of ₹7,56,773.84P. against the acquired land of the petitioners, an amount of ₹6,62,577.71P has already been paid to their father, namely, Ram Narain vide cheque no.017415 dated 27.3.1989 and qua rest of the meagre compensation of ₹94,196/-, the petitioners did not provide their consent in writing to receive compensation along with other relevant documents to prove their ownership. Hence, the said amount is lying undisbursed and is available for payment immediately on demand. She further contended that even the enhanced compensation ordered by the Reference court has also been deposited in the court. Earlier, Civil Writ Petition No.3341 of 1991 titled as “Laxmi Dass versus State of Haryana”, filed by the petitioner, challenging the acquisition proceedings was dismissed by this court on 20.5.2004. The said order has attained finality as the petitioners did not file any SLP against the same. Subsequently, Civil Writ Petition bearing no.1785 of 2005 titled as “Devender Kumar versus State of Haryana” filed by the petitioners, seeking lapse of acquisition proceedings, in view of the provisions of section 24(2) of the 2013 Act, was disposed of vide order dated 30.4.2015. Pursuant thereto, the claim of the petitioners was duly considered by the competent authority and it did not find applicability of section 24(2) of the 2013 Act. No discrimination has been done with the petitioners and no pick and choose policy has been

adopted by the respondents in their case.

4. After giving our thoughtful consideration to the submissions made by the learned counsel for the parties, we find that the writ petition is completely devoid of any merit and thus, the same is liable to be dismissed for the reasons to follow:

5. Admittedly, the father of the petitioners, namely, Ram Narain, had received compensation of ₹6,62,577.71P. out of a total amount of compensation of ₹7,56,773.84P and thus, the amount of compensation received was short by only ₹94,196.13P. which, in our considered opinion, may be on account of miscalculation on the part of the respondents. More so, the photographs relied upon by the petitioners in support of their contention that they are in possession of the land in dispute by raising construction of four rooms, bath room and a boundary wall thereon, negate their version that there exists a boundary wall over the land in dispute, inasmuch as, there is no such wall visible in any of the photographs placed on the record. All the eight photographs relied upon by the petitioners, which are annexed with the writ petition as Annexure P-10, show that there is a temporary tin-shed, erected by the petitioners with a view to fortify their stand that they are in possession of the land in dispute by constructing four rooms over there. Even the tins are new. Man may speak lie, but the circumstances do not. The tin-shed, depicting in the photographs, belies the entire version of the petitioners. More so, the petitioners or their predecessor Ram Narain, while filing a reference petition under Section 18 of the 1894 Act, for enhancement of the amount of compensation nor at any later stage, took the plea that they were in possession of the land in dispute.

There is no concrete evidence on the file to show that any construction of

the petitioners, either of permanent or temporary nature, is in existence on the disputed land.

6. In view of the foregoing reasons, finding no merit in the instant writ petition, the same is hereby dismissed.

(RAMENDRA JAIN)
JUDGE

(RAJESH BINDAL)
JUDGE

10.5.2017
VK

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No