

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Writ Petition No.1894 of 2018
Decided on : 19.09.2018**

Sukhwinder Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. KDS Sidhu, Advocate for the petitioners.

Mr. P.S. Bajwa, Addl. AG, Punjab.

G.S. Sandhawal, J. (Oral)

The present writ petition has been filed under Article 226/227 of the Constitution of India seeking directions to the respondents to pay compensation @ 24% per annum to the petitioners, on account of illegal possession of the land without payment of any compensation. The possession was taken for the purposes of constructing the Ghanga Kalan Reclamation Channel, possession of which taken on 17.12.2001.

The Section 4 notification under the Land Acquisition Act, 1894 (for short 'the Act') was issued on 30.01.2002 and Section 6 notification was issued on 05.02.2003. The claim is based upon the Division Bench judgment passed in **CWP No.11041 of 2009 'Gurdeep Singh and others Vs. State of Punjab and others'** decided on 10.02.2010 (Annexure P-3).

The respondents in their reply have also admitted the possession as such, but taken the plea that on account of the Award not being passed by the Land Acquisition Collector within stipulated period, the land acquisition proceedings lapsed as such. It is further admitted that

possession was taken on 27.12.2001, but the respondents do not need the land for the canal, as the scheme of construction of the same had been abandoned/rescinded on 16.01.2013 (Annexure R-1). A public notice dated 22.02.2013 (Annexure R-2) had also been circulated regarding the abandonment and the possession had been returned to the land owners on 22.02.2013. It has further been averred that the department is ready to pay compensation as per the judgment passed in **Gurdeep Singh's case (supra)**, if the petitioners name exists in the list of owners of above land. The directions given in the said case read as under:-

“Having heard the learned counsel for the parties, we are of the considered view that the petitioners have been treated harshly by the respondent. Firstly, they are deprived of their land and then no compensation has been paid for their land for the last about 9 years. The notifications issued under Section 4 & 6 of the Act in the years 2002 and 2003 have been permitted to lapse. In these circumstances, we accept the prayer made by the learned counsel for the petitioner and deem it just and appropriate to direct respondent Nos.2 & 3 to assess the damages in respect of the land of the petitioners at the rate of Rs. 20,000/- per acre per annum from the date of acquiring possession, i.e., 27.12.2001 upto 30.06.2010 2 of 3 and pay them the amount so calculated along with 9% interest. The needful shall be done within two months from today. However, damages beyond 30.06.2010 can be calculated and paid up from the date of issuance of notification under Section 4 of the Act and the compensation with regard to the acquisition of the land has to be paid if any notification under Section 4 of the Act is issued and the award is passed as per the rates given in the award. The petitioners are at liberty to file fresh petition if no acquisition proceedings are initiated by the respondents within 6 months from today.

In view of above, writ petition stands disposed of.”

Keeping in view the fair stand taken by the State, the present writ petition is disposed of with the directions that the petitioners shall appear before the respondent No.3 on 15.10.2018 and the said respondent after verifying the right of the petitioners as such regarding title of the land, take steps to make payment, in view of the directions given in **Gurdeep Singh's case (supra)** for the period from 27.12.2001 to 22.02.2013. The said exercise be completed within a period of two months from the date of appearance.

Disposed of.

SEPTEMBER 19, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No