

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

CWP No.27085 of 2015 (O&M)

Date of decision:07.08.2018

Nirvail Singh and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Bikramjit Aroura, Advocate
for the petitioners.

Ms. Anu Pal, DAG, Punjab.

Mr. Surinder Mohan Sharma, Advocate
for respondents No.5 to 7.

Amit Rawal, J.

C.M.No.11198 of 2018

The application is allowed, subject to all just exceptions. Reply to the affidavit filed by Sh. Pardeep Kumar, D.C.Tarn Taran, is taken on record.

CWP No.27085 of 2015

The petitioners have approached this Court for issuance of a writ in the nature of mandamus declaring unauthorized retention of possession of land measuring 7 kanals 7 marlas bearing khata/khatauni no.284/510, 511 and 97/203 khasra nos.351/2(5-13), 302/1/2(1-14) situated at Tarn Taran Bye-Pass Road within the area of village Muradpura, Tehsil

and District Tarn Taran by the respondents-State of Punjab, Department of P.W.D(B&R) to be illegal, unauthorized and violative of Articles 14 and 300-A of the Constitution of India and further writ to immediately restore the possession of aforementioned land by restraining the respondents not to interfere or dispossess the petitioners from the land bearing khasra no.352/2/1(3-14), 358/2/1 Min North(0-8), 51//8/2/1 Min (1-2), 303/2/2(1-11), 306/2/1 Min North (0-2) till the restoration of the possession.

Owing to initiation of acquisition proceedings by P.W.D (B&R) for construction of Bye-Pass Tarn Taran, land of the petitioners was acquired but alignment of Bye-Pass was changed due to existence of Gurudwara and therefore, land of the petitioners remained un-acquired but it was encroached upon by the department, i.e., the acquired land was never taken into possession while constructing the Bye-Pass. The department had assured the petitioners for undoing the wrong by changing the mutation of ownership and to this extent the revenue department in the letter dated 19.05.2005 written to S.D.M. Tarn Taran had undertaken, thus, was constrained to approach this Court, vide CWP No.9110 of 2007. This Court, vide order dated 25.01.2008 disposed of the writ petition by directing the respondents to clear the transfer/exchange of land in terms of sanction granted on 20.09.2007.

In pursuance to the aforementioned directions, the mutation bearing Nos.9048 and 9049 of village Muradpura and mutation no.6352 of Pandori Gola were sanctioned on 11.12.2007 by the revenue authorities.

The aforementioned mutations were challenged by Kulwant Singh and others in CWP No.710 of 2008 and this Court, vide order dated 16.11.2009 had disposed of the writ petition by setting aside the exchange dated 20.9.2007 and consequential mutation no.9048 by holding that exchange, if necessary, shall be done only after hearing the petitioners therein and private respondents, i.e., petitioners herein in accordance with the provisions of Section 118 of the Transfer of Property Act, 1882 by way of a registered document. Since the aforementioned action was not taken, the petitioners were constrained to file the present writ petition with the aforementioned prayer.

During the pendency of the writ petition, the Deputy Commissioner, Tarn Taran had filed an affidavit dated 26.02.2018, wherein, it has been stated that they are ready to transfer the land by way of a registered document. In pursuance to the aforementioned affidavit, this Court on 10.01.2018 passed the following order:-

“The acquisition of land and subsequent alleged oral exchange of a small parcel of land between the State Government and the petitioners has led to a perpetual dispute between the petitioners and the private respondents. Since the dispute has emanated out of an oral exchange which did not find sanctity in law and was set aside by this Court, we are of the view that the matter requires immediate intervention of the State authorities for an amicable solution. The Deputy Commissioner, Tarn Taran is, thus, directed to convene a

meeting, visit the site, hear the concerned parties and find out a viable solution, failing which we will be constrained to direct the State Government to acquire the small portion of the land which has become the root cause of the dispute.

Adjourned to 01.03.2018.”

Learned counsel for the State submitted that process for exchange of land by way of registered document has already been initiated and the same shall be completed in due course. This fact has not been denied by learned counsel for the petitioners.

Since the Deputy Commissioner, Tarn Taran-respondent No.4-through State counsel has undertaken to complete the process of exchange by way of registered document, we are sanguine of the fact that the aforementioned exercise shall be done within a period of four weeks from the date of receipt of a certified copy of the order.

Writ petition stands disposed of in the aforementioned terms.

(Rajesh Bindal)
Judge

(Amit Rawal)
Judge

07.08.2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No