

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

111+212

**CWP No.26170 of 2018 (O&M)
Decided on : 06.12.2019**

Iqbal Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Yogesh Kumar Aneja, Advocate and
Mr. Suresh Kumar Aneja, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India challenges the notice dated 13.01.2017 (Annexure P-3) wherein on account of excess amount of payment of ₹1,44,070.27, on account of compensation for the acquisition of land, it is sought to be recovered. Apart from the principal amount, interest @ 12% is also sought to be recovered to the tune of ₹2,63,648.59 for the period of 15 years 3 months. Accordingly, a total amount of ₹4,07,718.86 is sought to be recovered.

Challenge is also to the order dated 03.02.2003 (Annexure P-6) wherein the entry as such of attachment was made, so that the petitioner may not alienate the land in question.

The case of the petitioner is that he was never issued any show cause notice nor granted any opportunity of hearing and is not liable to pay

the excess amount on account of lapse of 15 years.

The response of the State in its reply is that vide notification dated 05.09.1997 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') land measuring 4 kanals 18.67 marlas of the petitioner was acquired. The amount due to be paid to the petitioner was ₹1,98,500.77. The part payment of ₹1,08,533.33 was paid vide cheque, but instead of making payment of ₹89,967.44, he was subsequently paid ₹2,34,037.71 on 04.10.2001 and thus, the excess amount was paid at that point of time. The attachment was thus made vide Rapat No.260 dated 13.02.2002, but the petitioner did not refund the amount. Resultantly, interest element as such is sought for the intervening period.

Counsel for the petitioner submits that he has the instructions that the petitioner would pay the principal amount, but the interest element cannot be claimed by the State.

Counsel for the State has justified that the attachment was made in the year 2002, but the payment was not deposited and therefore they are entitled for the same.

Admittedly, the notice of recovery has been served upon the petitioner only on 13.01.2017 and the State has been silent on the recovery aspect for all these long years. For its own act, it cannot now claim the rate of interest @ 12%. Once it had come to the notice in the year 2002 that the excess amount had been paid, it was always open to the State to initiate recovery proceedings immediately. Nothing has been

brought to the notice of this Court that any action had been taken from the year 2002 to 2015. In such circumstances, the claim for interest on the part of the State is not justified.

Keeping in view the fact the petitioner is willing to pay the principal amount, the present writ petition is disposed off by quashing the notice dated 13.01.2017 (Annexure P-3) and the attachment order dated 03.02.2003 (Annexure P-6), with the directions that the landowner will deposit the amount of ₹1,44,070.27 within a period of 2 months from today. It is, however, made clear that if payment is not deposited with respondent No.4 within the period prescribed, the writ petition will be deemed to have been dismissed. All pending civil miscellaneous applications also stand disposed off.

DECEMBER 06, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No