

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

CWP No.27946 of 2017

Date of decision: 6.5.2019

Roshan Lal and others

...Petitioners

Versus

Union of India and others

...Respondents

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

Present: Mr. Jaspal Singh Maanipur, Advocate for the petitioners.

Mr. Kuldeep Tiwar, Advocate for
respondents no.2 and 3.

Ms. Simran Grewal Randhawa, AAG, Punjab
for respondent no.4.

G.S.SANDHAWALIA, J. (Oral)

The present petition is a classic case of abuse of the writ jurisdiction of this Court as after an acquisition which had taken place in the year 1952, a writ petition has been filed for grant of compensation on the ground that the compensation was not paid taking advantage of the incorrect revenue record.

Possession of land bearing Khasra Nos. 587(4-11), 1135(0-14), 234(9-18), 690(5-17) and 749(7-7) situated in village Dobhetta, Hadbast No.280, Tehsil Nangal, District Roop Nagar is stated to have been taken as per Jamabandi for the year 2010-11 (Annexure P/2). Thus Article 31-A of the Constitution of India as such is sought to invoke. In paragraph 8 of the writ petition, it is specifically mentioned that "till date no acquisition notification has been issued to acquire the land in question, which is in their ownership till date and without making payment of mesne profit or

compensation, they cannot be deprived possession of their land.”

The specific stance has been taken by the respondents that the land was acquired by the erstwhile State of Punjab vide award No.98-H and Award No.14-H both dated 10.12.1952. Copy of mutation No.1552 regarding award No.14-H of village Dobhetta, Hadbast No.280, Tehsil Anandpur Sahib, District Ropar has been appended as Annexure R-2/1 which is dated 30.1.1976. It is submitted that regarding Award No.98-H mutation had not been carried out in the record inadvertently and the process to carry out the mutation in record is under process before the competent revenue authority. Annexure R/2-4 has been relied upon wherein for Award No.98-H dated 10.12.1952 request had been sent for sanctioning of mutation to the higher authorities. Annexure R/2-6 has been relied upon to show that for land bearing Khasra No.587(4 Kanals 11 Marlas) payment of ₹ 820.3 was made. It is also the case of the respondents that the “entry in Khasra No.1135, 234, 690, 749 situated in village Dobhetta Hadbast No.280 Tehsil Nangal, District Ropar, Punjab in the column of cultivation in jamabandi for the year 2010-11 has been rightly recorded, mentioned as “Makbooja Department of Irrigation” as per law.”

Counsel for the respondents has relied upon Annexure R/2-6 to argue that compensation had been distributed. Note given in Annexure R/2-6 in this regard reads as under:-

“NOTE : Mortgagee had also received the payment but it is not to what extent the payment is made. Therefore total payment of total area with calculation is returned to them in the presence of the parties. Compensation be distributed.”

From perusal of the pleadings as such reproduced above, it is clear that specific case as such of the respondents is that acquisition had

taken place in 1952 and benefit of the wrong entries in the revenue record as such is sought to be taken by the petitioners.

The petitioners for all these years have never as such raised issue that they have been dispossessed without procedure prescribed for the land as such had been acquired for the purpose of establishment of Bhakra Dam and other ancillary projects. Demand for justice was only issued vide legal notice dated 10.8.2017 (Annexure P/7) which is based upon on some information sought under the Right to Information Act, 2005. It is settled principle that a writ Court will only exercise jurisdiction when the parties approach the Court with clean hands. The pleadings in paragraph no.8 of the writ petition have to be specifically noticed. The petitioners have never at any point of time clarified that the proceedings for acquisition had been initiated way back in 1952 and have thus misused the process of writ jurisdiction. The said stand of the respondents has also not been contradicted by filing replication though reply was filed in August, 2008.

Resultantly, this Court is of the opinion that the writ petition petition is liable to be dismissed with exemplary costs in view of the law laid down in **M/s Prestige Lights Ltd. Vs. State Bank of India (2007) 8 SCC 449**. It was held as under:-

“It is thus clear that though the appellant- Company had approached the High Court under [Article 226](#) of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under [Article 226](#) of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or

twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

The said view has been reiterated in **Dalip Singh Vs. State of U.P. and others (2010) 2 SCC 114** and **Kishore Samrite Vs. State of U.P. and others (2013) 2 SCC 398**.

Accordingly, a sum of ₹ 25,000/- is imposed as costs upon the petitioners. The District Collector, Roop Nagar shall recover the amount from the petitioners by way of arrears as land revenue. Necessary report in this regard be submitted to the Registrar (Judicial) after due recovery.

May 06, 2019
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No