

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

**Civil Writ Petition-PIL No. 118 of 2021 (O&M)
Date of Decision: 09.08.2021**

Dinesh Chadha, Advocate, Rupnagar and others

..... Petitioners

Versus

Union of India and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Sameer Sachdeva, Advocate
for the petitioners.

Mr. Aalok Jagga, Advocate
for private respondent Nos. 15 to 17.

*[The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court]*

JASWANT SINGH, J.

The present petition has been preferred by petitioners in public interest with a prayer that criminal action and inquiry be ordered against the respondents on the ground that the land of respondent No. 15 and his family members, situated at Guruharsahai District Ferozpur has been mischievously acquired by the respondent – Government of Punjab in the year 2012, even though it allegedly already stood acquired and compensation paid in the year 1962. It is alleged that respondent No. 15 is well placed in political circles of the State of Punjab and the aforesaid acquisition has been intentionally done to cause undue benefit to him and his family members.

[2] In brief the case set up by the petitioners is that on 31.01.1962, State of Punjab had issued notification under Section 4 and 6 of the Land Acquisition Act, 1894 intending to acquire chunks of land in Khasra No.

116 and 117, Guruharsahai District Ferozepur. (Though it is not understood

how both notifications could be issued on the same date). The petitioner submit that award dated 22.03.1962 was passed for aforesaid land (though no copy of the said award has been placed on record). Subsequently, respondent No. 15 filed a Civil Suit titled as “*Gurmit Singh V/s State of Punjab and others*” before the Ld. Civil Court, Ferozpur seeking possession of its land measuring 69 Kanal 3 Marla at Village Mohan Ke Uttar, Ferozpur on the ground that the plaintiff continues to be the owner of the said land whereas the State of Punjab without lawfully acquiring the same had utilized the same land for common purposes. The said suit was decreed vide judgment and decree dated 18.04.2006, whereby though relief of possession was declined but the State of Punjab was permitted to initiate action in accordance with law regarding acquisition of land of the plaintiff therein / respondent No. 15 herein. State of Punjab unsuccessfully contested the same in Appeal No. 87 of 20.05.2006 which was dismissed on 05.10.2007 (**Annexure P-15**) by the Ld. Additional District Judge, Ferozpur.

[3] Subsequently, one of the co-owners alongwith respondent No. 15 submitted representation to the State of Punjab being aggrieved of the action of State of Punjab in utilizing his land without having lawfully acquired the same. This led to the State of Punjab passing an award dated 06.06.2012 vide which the lands of respondent No. 15 and other co-sharers were acquired. Compensation pursuant to same was paid on 24.07.2014 (as is evident from **Annexure P-21**). Respondent No 15 and other co-sharers applied under Section 18(1) read with 31(2) of the Land Acquisition Act, 1894 before the Ld. Additional District Judge, Ferozpur for enhancement.

Vide order dated 26.11.2015 (**Annexure P-21**) it was noticed that since compensation has been paid by the State of Punjab after coming into force of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, therefore it be re-determined and be paid in accordance with the same.

[4] State of Punjab aggrieved against the same preferred Civil Revision No 7218 of 2017 which was dismissed by this Court on 31.10.2017 (**Annexure P-22**). Still aggrieved State of Punjab preferred SLP No. 28102/2012 which was dismissed on 03.05.2019 (**Annexure P-23**).

[5] On account of non-compliance of the order of Ld. Additional District Judge dated 26.11.2015 (**P-21**), respondent No 15 and the other co-sharers approached this Court by filing Contempt Petition bearing COCP No. 883 of 2018, in which vide order dated 17.12.2020 (**Annexure P-26**) this Court directed the State of Punjab to disburse the compensation to the petitioner therein. Aggrieved against the same, State of Punjab preferred LPA No. 126 of 2021 in which vide order dated 09.02.2021, disbursement of compensation has been stayed, on the ground that a review application has been filed by the State of Punjab before the Hon'ble Supreme Court which is yet to be listed.

[6] We have been informed that State of Punjab filed Review Petition (Civil) No 28012 of 2020 and vide order dated 03.05.2021, Hon'ble Supreme Court has issued notice to the respondent No. 15 herein, for 16.07.2021 which is now pending for 27.08.2021. Though the said review petition is not before us, but we have been informed by Ld. Counsel appearing on behalf of respondent No. 15 that it also involves same

contentions as raised in the present petition.

[7] On the basis of the aforestated facts, learned counsel for the petitioners contends that the State of Punjab had conducted an in house inquiry on 06.03.2020 (**Annexure P-24**) and 25.06.2020 (**Annexure P-25**) by constituting certain committees, which have concluded that the lands of respondent No. 15 were wrongly acquired in the year 2012 as they were stated to have been earlier acquired in the year 1962.

[7.1] It is further contended that the necessity of filing the present petition has arisen on the ground that no action is being taken by the official respondents – State of Punjab in this regard and therefore the petitioners who claim themselves to be a public spirited person are filing the instant petition in public interest.

[8] On the other hand, respondent No. 15 has appeared through a counsel and has submitted a two page note containing list of litigation pending and decided between respondent No. 15 and State of Punjab as regards acquisition of the same land in question, which has also been referred to above. He contends that the petitioners cannot be permitted to unsettle the rights of the petitioners as per the judgment and decree dated 18.04.2006 which has been upheld in order dated 05.10.2007 passed by the First Appellate Court dismissing the appeal of the State of Punjab. That apart he has raised a preliminary objection regarding maintainability of the present petition on the ground that the present petition does not espouse any public interest. He further states that the present petition deserves to be dismissed on the ground of concealment of fact as similar issue has been raised by the State of Punjab before the Hon'ble Supreme Court in Review

Petition (Civil No. 28012 of 2020) filed by the State of Punjab consequent upon dismissal of its SLP No. 28012 – 28013 of 2018 on 03.05.2019, which has not been disclosed in the present petition. He thus contends, that parallel proceedings are not maintainable.

[8.1] On merits, he has denied that the land in question had been acquired in 1962, rather was acquired for the first time in vide award dated 06.06.2012. Acquisition proceedings of 1962 does not include the land in question. Moreover, the petitioners have not placed on record even a single document to support its contention regarding alleged acquisition of land in the year 1962 as neither copy of any such award nor any treasury receipt evidencing payment of compensation to respondent No. 15 has been placed on record. He contends that this is proxy litigation on behalf of certain interested persons and hence not maintainable.

[9] Having heard learned counsels for the respective parties at some length, this Court had put a query to the learned counsel for petitioners as regards the nature of public interest which it intends to espouse and maintainability of the present petition. In reply, Ld. Counsel submits that they have no personal interest but it is the public resources which are being misused by the respondents for the intended benefit of respondent No 15, and therefore they are entitled to maintain the present petition in public interest.

[10] A perusal of the writ petition filed by the petitioners and the two page note submitted on behalf of respondent No. 15, we find that the following litigation is already pending / decided between respondent No. 15 alongwith his family members and the State of Punjab:-

(i) Civil Suit titled as “**Gurmit Singh Vs State of Punjab and others**” was filed by Sh. Gurmit Singh / respondent No. 15 seeking declaration that he is the owner of land measuring 69 kanal 3 marla situated at Mohan Ke Uttar, Guru Harsahai, Ferozepur with a further prayer that the possession of the said land be restored in its favour which has been in occupation of the State of Punjab. The said suit was decreed vide Judgment and decree dated 18.06.2006 has been passed by the Court of Ms. Sanjeeta, Ld. Civil Judge (Junior Division), Ferozepur. It was held that respondent – State of Punjab has failed to prove as to how it came into lawful possession of the suit land in question. The relief of possession sought for by the plaintiff was declined but the respondent – State of Punjab was granted liberty to follow the procedure of law for acquiring the land of the plaintiff therein / respondent No. 15 herein.

(ii) “**State of Punjab and another V/s Gurmit Singh and others**” bearing Civil Appeal No. 7 of 20.05.2006, was filed by State of Punjab challenging the aforesaid judgment and decree dated 18.06.2006, which was dismissed on 05.10.2007 (P-15) by the Court of Sh. U.S Gera, Ld. District Judge Ferozepur.

(iii) “**Guru Gurmit Singh and others Vs Land Acquisition Collector, Distt. Ferozepur**” bearing Civil LAC RBT No. 05/10.09.2014 / 28.01.2015 decided by the Court of

Dr. Ram Kumar Singla, Ld. Additional District Judge, Ferozepur. The said petition was filed U/s 18 (1) read with Section 31(2) of the Land Acquisition Act, 1894, seeking enhancement of compensation pursuant to award dated 06.06.2012. The Ld. Court directed that since the compensation pursuant to the aforesaid award was reimbursed to the claimant only on 24.07.2014 i.e. after coming into force The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, the claimants are entitled to compensation as per the said Act, 2013 and not in terms of the provisions of Land Acquisition Act, 1894. Collector, Ferozepur was directed to re-determined the compensation as per aforesaid Act, 2013.

(iv) ***“State of Punjab Vs Guru Gurmit Singh and others”*** bearing Civil Revision No. 7127 of 2017 dismissed by this Court vide order dated 31.10.2017 (**P-22**) by virtue of the said Revision Petition, the State of Punjab has laid challenge to the aforesaid order dated 26.11.2015 passed by the Ld. Additional District Judge, Ferozepur.

(v) ***“State of Punjab Vs Guru Gurmit Singh and others”*** bearing SLP No. 28012 – 28013 of 2018 was dismissed by the Hon’ble Supreme Court on 03.05.2019, wherein order dated 31.10.2017 (**P-22**) passed by this Court was challenged.

(vi) ***Review Petition (Civil No. 28012 of 2020)*** has been filed by the State of Punjab before the Hon’ble Supreme

Court seeking review of the earlier order dated 03.05.2019 in which notice has been issued vide order dated 03.05.2021 for 16.07.2021. The said matter is stated to be currently pending for 27.08.2021.

(vii) “*Guru Hardip Singh Vs Ramvir*” bearing COCP No. 883 of 2018, filed by respondent No. 15 and other co-owners seeking remedy under Section 10 of the Contempt of Courts Act, 1971 on account of non-compliance of the order dated 26.11.2015 passed by Ld. Additional District Judge, Ferozepur. In the said petition vide order dated 17.12.2020 **(Annexure P-26)** Ld. Single Judge of this Court has directed the respondents to deposit the amount of re-determined compensation with the concerned Court within 1 week, which was ordered to be disbursed to the petitioner therein, subject to furnishing of security.

(viii) “*Vikas Partap Vs Guru Hardip Singh*” bearing LPA No. 126 of 2021 in COCP No. 883 of 2018, wherein vide order dated 09.02.2021 **(Annexure P-28)**, disbursement of the amount so deposited by respondent No. 1 has been stayed till further orders in view of the State of Punjab having filed review before the Hon’ble Supreme Court.

In view of the aforesaid litigation having been decided / pending before various courts, we find that the petitioners are complete alien to the cause as sought to be espoused in the present petition. It cannot

be said that the respondent – State of Punjab has not availed of its remedies available in law. Learned counsel for respondent No. 15 has pointed out that the review pending before the Hon'ble Supreme Court also involves similar issue is sought to be raised in the present petition.

[11] Hon'ble Supreme Court in ***Dattaraj Nathuji Thaware Vs. State of Maharashtra 2005 (1) SCC 590*** while examining the meaning of the expression "Public Interest" held it means a matter of public or general interest which would affect class of community. It would also mean something with which rights of public are affected. It also held that the Court must not allow its process to be abused for oblique consideration by masked phantoms who monitor at times from behind. Public Interest Litigation cannot be permitted to be misused for settling masked and camouflage issues. Extract of para 5 relevant to the present controversy and para 7 of the said judgment reads as under:-

"5. It is necessary to take note of the meaning of expression 'public interest litigation'.

In Stroud's Judicial Dictionary, Volume 4 (IV Edition), 'Public Interest' is defined thus:

"Public Interest (1) a matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."

In Black's Law Dictionary (Sixth Edition), "public interest" is defined as follows:

"Public Interest something in which the public, or some interest by which their legal rights or liabilities are affected. It does not mean anything the particular localities, which may be affected by the matters in question. Interest shared by

national government...."

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“7. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique considerations. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.”

(Emphasis supplied)

We find that none of the required elements of treating the espoused cause as public interest are attracted in the present case. The issue raised regarding the validity of the acquisition proceedings which have been and are a subject matter of pending litigation between the affected parties, would not affect the rights of general public or a class of community. Rather, it seems that the petitioners for reasons best known is unnecessarily trying to interfere into a pending litigation between two litigants. Thus, we

[12] Even otherwise, the present petition is not maintainable in view of Rule 6 and 7 of maintainability of *Public Interest Litigation Rules, 2010* as per which ordinarily PIL may be entertained on any subject of vital importance some of which have been mentioned therein by way of illustration. Rule 6 and 7 of the Rules 2010 reads as under:-

“6. Ordinarily, the PIL may be entertained on any subject of vital public importance, such as:

(a) Bonded Labour matters.

(b) Neglected Children.

(c) Petitions from riot victims.

(d) Petitions complaining of harassment or torture of persons belonging Scheduled Castes, Scheduled Tribes and other Backward Classes by the others or by the police.

(e) Petitioner pertaining to environmental pollution, disturbance of ecological balance, forest and wild life.

(f) Petitioners complaining violation of human rights.

7. The Registry shall be entitled to verify the antecedents of a person, society or an association who involves the jurisdiction of the High Court on the cause of public interest. Where the Registry has any doubt on such antecedents, an office note to this effect shall be put up, except on the petitions which are received by post.”

Neither does the case of the petitioners espouse any cause of vital public importance nor does it fall amongst any of the illustrative issues as provided under Rule 6 and 7. Hon’ble Supreme Court in para 7 of ***Dattaraj Nathuji Thaware (supra)*** has held that in case, if such Public Interest Litigations are found to have misused the process of law, the same are required to be dismissed with exemplary costs.

[13] After having vehemently argued at length and the hearing over, which has prompted us to pass a detailed order here-in-above, learned

exhausted, made a **request** for permission to **withdraw** the present petition.

Keeping in view the same, we refrain ourselves from commenting any further and allow the petitioners to withdraw the present petition.

Dismissed as withdrawn.

(JASWANT SINGH)
JUDGE

August 09, 2021
'dk kamra'

(SANT PARKASH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>