

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 18346 of 2021

Date of Decision: 15.09.2021

Lovepreet Kaur and Another

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Divanshu Jain, Advocate
for the petitioner(s).

Mr. Raghujeet Singh Madan and Ms. Deepshikha Gupta,
Advocates, for respondent No.1 and 2.

Anil Kshetarpal, J.

1. Through this writ petition, the petitioners pray for the following substantive reliefs:-

- “ii) Issue a writ in the nature of Mandamus directing respondents, particularly respondent No.2 not to interfere in the peaceful possession of the petitioners in built up house measuring 37.08 marla forming part of khasra Nos. 23//11, 23//20/1/2, 23//20/2 situated in village Kang, Tehsil Khadoor Sahib, District Tarn Taran under the garb of land acquisition proceedings under the provisions of National Highways Act, 1956, which culminated into passing of an award dated 06.04.2021 (Annexure P-1).
- iii) Further issue an appropriate writ, order or direction, especially in the nature of Certiorari quashing award

dated 06.04.2021 (Annexure P-1) passed by respondent No.3, vide which compensation has been assessed for land belonging to the petitioners which became subject matter of compulsory acquisition of land, without providing for compensation for severance, structures etc. and thus the same being in contravention of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as made applicable to acquisition under National Highways Act, 1956.

- iv) And/or in the alternative, for issuance of directions to the respondents, particularly respondent NO.3 to pass a fresh award, assessing compensation strictly in light of the provisions contained in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as made applicable to acquisition under National Highways Act, 1956”.

2. The petitioners claim that a piece of the land along with the structure owned by them has been acquired by the Union Government vide an award dated 06.04.2021 passed in accordance with the National Highways Act, 1956 (hereinafter referred to as “the 1956 Act”).

3. The learned counsel representing the petitioners submits that at this stage, the petitioners only pray for seeking directions not to dispossess them without passing an award with regard to the building.

4. Mr. Raghujeet Singh Madan, Advocate, has entered appearance

pursuant to the advance copy of the writ petition and states that Section 3E of the 1956 Act provides for a procedure for taking possession. He submits that as of now, the Union of India has no plan to take possession without assessing the compensation of the structure.

5. Section 3E of the 1956 Act is extracted as under:-

“3E. Power to take possession.—(1) Where any land has vested in the Central Government under sub-section (2) of section 3D, and the amount determined by the competent authority under section 3G with respect to such land has been deposited under sub-section (1) of section 3H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply--

(a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District,

and such Commissioner or Collector; as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it”.

6. Keeping in view the fair stand of the learned counsel representing the National Highways Authority of India, no further order is required to be passed.

7. With the observations made above, the present writ petition is disposed of.

(Anil Kshetarpal)
Judge

September 15, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No