

**CWP-17739-2018 (O&M)  
and connected cases**

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

**1.CWP-17739-2018 (O&M)**

Sarabjit Singh Bassi and others

....Petitioners

Versus

State of Punjab and others

..Respondents

**2.CWP-25572-2018 (O&M)**

Harjeet Kaur and another

....Petitioners

Versus

State of Punjab and others

..Respondents

**3.CWP-28450-2018 (O&M)**

Hardev Kaur and others

....Petitioners

Versus

State of Punjab and others

..Respondents

**4.CWP-23123-2018 (O&M)**

Karnail Singh and another

....Petitioners

Versus

State of Punjab and others

..Respondents

Date of decision: 10.09.2021

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr.Rakesh Gupta, Advocate for the petitioners  
in CWP-17739-2018 and CWP-25572-2018

Mr. Munish Gupta, Advocate for the petitioners  
in CWP-23123-2018 and CWP-28450-2018

Ms. Kanica Sachdeva, AAG, Punjab

**ANIL KSHETARPAL, J (Oral)**

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

By this order, four Civil Writ Petitions i.e CWP-17739, 25572, 28450 and 23123 of 2018 shall stand disposed of.

On reading of these writ petitions, it is apparent that the welfare State has been sitting over the land of the farmers for the last 23 years, without paying them even a single penny towards compensation. Initially, notifications under Section 4 and 6 of the Land Acquisition Act, 1894, were issued in the years 1997-98, respectively, which were allowed to lapse due to paucity of the funds. However, the possession of the land was taken away and a metalled road was laid on it. The petitioners made all the possible efforts to get the amount of compensation. However, the respondents-State did not consider it appropriate to pay the poor farmers their dues. It has come on record that one of the landowners Narain Dutt filed a civil suit in the year 2003, which was unfortunately dismissed. Even first appeal against the judgment of the trial court was also dismissed. In Regular Second Appeal, the High Court found that the courts have committed an error and therefore, remanded the case back to the First Appellate Court. The First Appellate Court vide judgment and decree dated 11.07.2016 directed the State to acquire the land and pay compensation to Narain

Dutt within a period of six months. As noticed in the order dated 14.03.2019, Sh. Narain Dutt has been paid a sum of Rs.39,89,000/- Thereafter, the State of Punjab vide communication dated 22.12.2017 directed the Deputy Commissioner to pass the award as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the '2013 Act'). On the basis of the aforesaid directions, the Sub Divisional Magistrate passed the award on 20.02.2018 assessing the compensation at Rs.22,36,0,9344/- with respect to the land located in villages Chaura and Fazalpur, utilized for laying Northern Bye Pass of Patiala City. The Sub Divisional Magistrate, thereafter, requested the Department of PWD (B&R), Punjab, to forward the payment vide communication dated 17.05.2018. However, no payment was forwarded. The petitioners were forced to file the writ petitions. In CWP 17739 of 2018, a reply was filed stating that the amount has been assessed and Rs.39,89,206/- has been paid to Narain Dutt. A stand was taken that whenever the amount is received, the same shall be paid to the landowners. Thereafter, the State of Punjab took a somersault and filed an affidavit while taking a stand that the award passed by the Land Acquisition Collector on 20.02.2018 is illegal and nonest.

On 20.08.2021, learned State counsel informed the Court that the State of Punjab has taken a conscious decision to release the amount of compensation assessed by the Land Acquisition Collector within a period of four weeks. She prayed for some time to file a specific affidavit of the Principal Secretary, Department of Public

Works, PWD B&R, Punjab, in this regard. Thereafter, the matter was adjourned to 26.08.2021. On 26.08.2021, Sh Vikas Partap, the Principal Secretary, PWD, B&R, Punjab, who was present in some other case, entered appearance in these cases also and filed an affidavit. In the aforesaid affidavit, it has been stated that as per the advice dated 23.06.2020 of the office of learned Advocate General, the award 20.02.2018 has been declared nonest in the eyes of law and therefore, the letters, dated 17.10.2017 and 22.12.2017, respectively have been withdrawn. It was further disclosed that vide letter memo no.6/89/2017-1BR3/203 dated 25.08.2021, the Government has appointed Sub Divisional Magistrate, Patiala, to take the following steps:-

“(i) Ascertain the extent of land belonging to appellant utilized during construction of northern bye pass and to compute compensation thereof; and

(ii) Ascertain the superstructure, if any, which existed over such land and to compute compensation for demolition of such superstructure.

(iii) Compute compensation for the said land at Collector rate as on the date/period of taking possession by the Public Works Department for the construction of Northern bypass. Further, the subject cited petitioners/landowners would be entitled to interest from the date/period of taking possession to the date of actual payment.”

Keeping in the aforesaid affidavit, the case was adjourned to today.

Today, when the cases were taken up, Ms. Kanica Sachdeva, learned Assistant Advocate General, Punjab, stated that the steps are being taken to pay the amount as and when the report of the Sub Divisional Magistrate is received.

It is clearly evident that the Executive of the State has been taking contradictory stands. This Bench is compelled to observe that the real intention of the Executive, as gathered from the irresponsible conduct, is to defer the payment of the compensation which is due to the petitioners for more than 2 decades now. There is no dispute that the Land Acquisition Act, 1894 has been repealed and substituted by the 2013 Act. The acquisition of the land can now be made in accordance with the prevalent law. Although, the respondent State is trying to project that the payment shall be made, however, in the considered view of this Court, in the absence of preliminary objections under Section 11 and 19 of the 2013 Act, the award as envisaged under Section 69 cannot be passed. Thus, it is apparent that the State has already denied the benefit of compensation to the petitioners for a period of more than 2 decades by resorting to dilatory tactics. Even now, the State is refusing to proceed in accordance with the law.

Keeping in view the aforesaid facts, this Court is compelled to make certain glaring observations. The mighty State is required to be sensitive towards the rights of poor farmers. The Executive of the State cannot take away the land of the poor farmers without paying them compensation and thereafter, make them run from pillar to post. It has already taken more than two decades to arrive at this stage. These writ

petitions are pending in this Court for the last 3 years. The respondents, repeatedly, have been taking contradictory stands. At one stage, they themselves made the assessment of compensation but at the subsequent stage, they took a somersault and declared that the compensation, as assessed, cannot be paid because the award is illegal. Now once again the same conduct is sought to be repeated. This Bench is of the considered view that without following proper procedure for acquisition of land the State has no power to take away the land of the owners. No doubt, the Right to Property is no longer a fundamental right but nonetheless it continues to be a constitutional right under Article 300-A of the Constitution of India.

Keeping in view the aforesaid facts, these writ petitions are allowed with the following directions:-

(i) The State Government is directed to pay the amount of the land utilized by the respondents at the current Collector's rate fixed by the Government with respect to the acquired land within 3 weeks from today, failing which the petitioners shall be entitled to take back the possession even if it results in inconvenience to the public due to closure of road.

(ii) The process for acquisition of the utilized land shall be initiated and completed within one year.

(iii) On completion of the acquisition, the payment of the amount assessed by the Land Acquisition Collector shall be paid within next 15 days from the date of award. The State is also burdened with the cost of Rs.2 lakhs in each writ petition. These costs shall be paid to the

petitioners.

After the judgment had been dictated in the open Court, Sh. Vikas Partap, learned Financial Commissioner, PWD (B&R), Punjab, entered appearance through video conferencing and stated that the report of the concerned Sub Divisional Magistrate has been received and he may be granted time to examine the same and make payment.

The judgment has already been dictated. The State Government will be at liberty to take action, if any, in accordance with law.

All the pending miscellaneous applications, if any, are also disposed of.

10.09.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)  
JUDGE**