

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
137

Date of Decision: May 17, 2022

**CM-963-LPA-2022 &
LPA No. 384-2022 &
CM-964-LPA-2022**

STATE OF PUNJAB AND OTHERS

...APPELLANTS

Versus

SARABJIT SINGH BASSI AND OTHERS

...RESPONDENTS

**CM-969-LPA-2022 &
LPA No. 389-2022 &
CM-970-LPA-2022**

STATE OF PUNJAB AND OTHERS

...APPELLANTS

Versus

KARNAIL SINGH AND ANOTHER

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. S.P.S. Tinna, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J.

**CM-963-LPA-2022 in LPA No. 384-2022
CM-969-LPA-2022 in LPA No. 389-2022**

Applications are allowed subject to all just exceptions. Filing of typed copies of Writ Petitions, Annexures, Replies and all other documents is dispensed with.

LPA No. 384-2022 & LPA No. 389-2022

Challenge in these appeals is to the order dated 10.09.2021 passed by the learned Single Judge, whereby the writ petitions preferred by the respondents (petitioners therein), who are farmers and have not been paid any compensation amount for the last 23 years after the possession of the land had been taken on issuance of notifications under Sections 4 and 6

of the Land Acquisition Act, 1894 in the years 1997-98, had been allowed. Because of paucity of funds, the acquisition proceedings were allowed to lapse but since the possession had already been taken of the land and a metalled road laid thereon, they had been deprived of the land without paying any compensation to them.

2. One of the land owners, namely, Narain Dutt filed a civil suit in the year 2003, which was dismissed by the trial Court so was the first appeal. However, in the Regular Second Appeal, this Court remanded the case back to the First Appellate Court for fresh decision. The said Court, vide its judgment and decree dated 11.07.2016, directed the State of Punjab to acquire the land and pay compensation to Narain Dutt within a period of six months. The said Narain Dutt had been paid an amount of ₹39,89,000/-.

3. The State of Punjab, vide communication dated 22.12.2017, directed the Deputy Commissioner to pass an 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 '2013 Act'). The Sub-Divisional Magistrate passed an Award dated 20.02.2018 assessing the compensation in respect of land located in Villages Chaura and Fazalpura, which was utilized for laying Northern Bye-Pass of Patiala City. Since no payment was released to the land owners, they were forced to file writ petitions. A stand was taken that in case of Narain Dutt, the amount would be paid to the other land owners but thereafter, they resiled from the same and took a stand that the Award of the Land Acquisition Collector dated 20.02.2018 is illegal and nonest.

4. Another somersault was taken when after the statement had

been given by the State counsel on 20.08.2021 in Court that the Land Acquisition Collector would release the amount within a period of four weeks but then on 26.08.2021, the Principal Secretary, PWD, B&R, Punjab came present in Court and filed his affidavit again stating that the Award dated 20.02.2018 had been declared nonest on the advice of the Advocate General and the earlier decision, therefore, stands withdrawn.

5. Keeping these facts in view and the changing stand of the Government, where it is acknowledged that the land of the respondents-petitioners had been taken possession of, on which the road has also been constructed which is being used by the public at large, the learned Single Judge proceeded to hold that without following the proper procedure for acquisition of land, the State has no power to take away the land of the land owners. Learned Single Judge had passed 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.”

6. Learned counsel for the appellants submits that there is no challenge to direction No. (ii). He, however, states that as far as direction No. (i) is concerned, the public interest would require that the petitioners be not held entitled to take back the possession as the road would close resulting in inconvenience to the public at large.

7. This contention of the learned counsel for the appellants is unacceptable especially when it is an admitted position that the possession of the land of the respondents-petitioners had been taken by the State without following the provisions of the Statute relating to acquisition of land.

8. Submission has also been made by the counsel for the appellants that when direction Nos. (i) and (iii) are taken together, there is nothing mentioned by the learned Single Judge with regard to the adjustment of the amount which would be paid to the respondents-petitioners in pursuance to direction No. (i). This he contends on the reasoning that when direction no. (iii) is given effect i.e. the payment of the amount assessed by the Land Acquisition Collector after completion of the acquisition will have to be paid once again. He states that this would amount to undue enrichment as for the same land as the respondents-petitioners would get payment twice over.

9. This contention of the learned counsel for the appellants is quite justified and, therefore, it is clarified that the amount, which is paid to the respondents-petitioners i.e. the land owners in pursuance to direction No. (i), shall be adjusted in the amount which would become payable to the land owners in pursuance to direction No. (iii).

10. Learned counsel for the appellants asserts that the cost, which

has been imposed by the learned Single Judge, is also on the higher side.

11. This contention of the learned counsel for the appellants cannot be accepted in the peculiar facts and circumstances of the case as the amount of cost, as assessed by the learned Single Judge, is fully justified keeping in view the changing stand of the Government from time to time and shirking away from making payment of the land, of which possession had already been taken and utilized for the purpose it was intended. The said possession had been taken, admittedly, in the year 1997-98. Further, the conduct of the State, during the proceedings before the Writ Court, required such a cost to be imposed upon it. We, therefore, find no ground for interfering with the amount of cost, as ordered to be paid to the respondents-petitioners.

12. In view of the above, these appeals stand dismissed but with the above-referred to clarifications.

CM-964-LPA-2022 in LPA No. 384-2022
CM-970-LPA-2022 in LPA No. 389-2022

In view of the disposal of the main appeals, these applications have been rendered infructuous and the same stand disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

(SANDEEP MOUDGIL)
JUDGE

May 17, 2022
pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No