

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2004-2015 (O&M)

Date of decision: 04.08.2022

Harnek Singh and others

....Petitioners

V/s.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Harpal Singh Saggu, Advocate
for the petitioners.

Ms. Anu Pal, DAG, Punjab.

Mr. S.S.Rangi, Advocate for respondent No.4.

Ritu Bahri, J.

The petitioners are seeking writ of mandamus directing the respondents to pay compensation to them as per provisions of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'Act, 2013') which came into effect on 01.01.2014.

The brief facts of the case are that the petitioners are owners of land measuring 13 Bighas 18 Biswas comprising in Khasra Nos. 5850/2645 (3-10), 2667 (3-19), 2616 (0-13), 2617 (1-2), 5828/2653 (0-17), 2660 (0-16), 2562 (1-13), 2563 (1-8) and have construction of a house over a plot measuring (0-13) in Khasra Nos. 2572/1 (0-6) and 2573/1 (0-7) situated in the Revenue Estate of Village Dhuri, District Sangrur (hereinafter referred to as 'disputed land').

The respondents No. 1 and 2 issued notification dated 25.01.1978 for acquisition of the land measuring 89 acres 4 kanals,

including the disputed land for construction of New Grain Market at Dhuri. The case of the petitioners are that some of the petitioners and their predecessors had challenged notification dated 25.01.1978 by filing suit No. 137 of 1982. The suit was decreed by the trial Court vide judgment and decree dated 04.08.1983. The appeal filed by respondents No. 1 and 2 against the said judgment and decree was dismissed on 23.11.1984. Both the said judgments and decrees attained finality as no appeal was filed by respondents No. 1 and 2.

The petitioners have placed on record mutation No. 15667 dated 31.07.1986 issued in favour of Punjab Govt. Colonization Department Punjab, Chandigarh (Annexure P-1) which was subsequently entered in the name of the petitioners and their predecessors. However, on account of judgment dated 23.11.1984, the mutation was not changed in favour of the predecessors of the petitioners. The respondents issued another notification dated 24.07.1987 (Annexure P-2) regarding disputed land. The said notification was challenged by the petitioners and predecessors of some of the petitioners by way of filing CWP-5795-1987 which was dismissed vide order dated 07.01.2011. The petitioners were in possession of the land as per stay order dated 08.08.1988 (Annexure P-3). Thereafter, award was passed on 29.06.1990 (Annexure P-4). Despite the award, possession is with the petitioners and this fact is evident from the official letter dated 31.03.2014 (Annexure P-5). However, no police help was sought to take possession from the petitioners as it is evident from letter dated 18.09.2014 (Annexure P-5/A).

The petitioners are seeking compensation as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013.

On notice of this petition, reply by way of counter affidavit of the Director Colonization Department, Punjab, Chandigarh dated 13.08.2015 was filed on behalf of respondents No. 1 to 3. The stand taken in the said reply is that after passing of the award dated 06.02.1990, the petitioners Harnek Singh and Isher Singh etc. were present at the spot. The payment regarding the land in question was offered to them on the said date but they refused to get the same. The respondents have deposited the said amount of compensation in Revenue Deposit in Government Treasury on 11.07.1990 and they are at liberty to get the same. The physical possession of disputed land i.e. portion of constructed area measuring 8'X10' falling in khasra No. 2573/1 could not be taken. The area acquired is under the possession of the respondent and the project of Mandi is functional except the room (kotha) built therein which is in the middle of the passage and this construction is severally causing hindrance in the smooth running of the traffic not only during the crop marketing seasons but also for the day to day activities of the commissions agents, farmers and general public.

The petitioners have filed replication dated 15.09.2015 to the counter affidavit/reply filed on behalf of respondents No. 1 to 3 in which they have denied that any compensation was ever offered to them as when the award was passed on 06.02.1990, there was a stay of dispossession of the petitioners vide order dated 08.08.1988 (Annexure P-3). The petitioners were in possession of the disputed land and the respondents did not want to make payment of compensation and they deposited the same in the Treasury for their own benefit. Further, no attempt was made to take the possession as it is evident from letter dated 31.03.2014 (Annexure P-5) and letter dated

18.09.2014 (Annexure P-5/A).

A separate reply by way of affidavit of the G.M. Marketing, Punjab Mandi Board, Punjab Mandi Bhawan, Sector 65-A, SAS Nagar, Mohali, dated 14.08.2015 was filed on behalf of respondent No. 4 in which it is again reiterated that the award was passed on 06.02.1990 in the presence of Harnek Singh and Ishar Singh but they refused to accept the same and as such the compensation amount was deposited in Govt. Treasury on 11.07.1990. Earlier, CWP-5795-1985 was filed by Ishar Singh, Sarwan Singh, Gurtej Singh, Harnek Singh, Kartar Singh, Gurbachan Singh, Charanjit Singh and Gurbax Singh (all partners), which was dismissed on 07.01.2011. The said order was challenged in the Supreme Court which was also dismissed vide order dated 30.10.2012. Again, CWP-24940-2013 was filed in this Court wherein the issue regarding plot falling in Khasra No. 2573/1 was involved. The said writ petition was disposed of with a direction to pass speaking order. The speaking order was passed concluding that the Khasra No. 2573/1 has been acquired. Thereafter, legal representative of Jagtar Singh etc. filed a case involving the same issue at Civil Court Dhuri, which was withdrawn on 19.02.2015 and on receipt of order dated 09.02.2015, the said suit was shown as withdrawn in the present writ petition. The petitioners are creating hindrance in acquisition proceedings being done for public purposes since 1998 and possession of the disputed area measuring 8'X10' (Room/Kotha) could not be taken physically. However, the rest of the acquired area has already been taken into possession and the Mandi is functional but the Room (Kotha) built in the middle of the exit passage of Mandi is causing hindrance in smooth running of traffic especially during crop season and in day to day activities

of the Commission agents, farmers and general public at large.

After hearing learned counsel for the parties and going through the replies filed by the respondents, the acquisition proceedings had attained finality after passing of award on 06.02.1990. The compensation has been deposited in Revenue Deposit in Government Treasury on 11.07.1990 and petitioners are at liberty to approach the concerned authority to get the same. The petitioners by way of filing CM-13711-2015 has placed on record report of Naib Tehsildar, Colonization, Patiala dated 30.09.2015 (Annexure P-7). As per this report, possession has been taken on 03.10.2015 with the help of police after removing illegal possession in New Grain Market, Dhuri. 23 persons were present when the possession has been taken. As per the judgment passed in *Indore Development Authority vs. Manoharlal and others*, AIR 2020 SC 1496 that once possession of the land had been taken, the land will vest in the State free from all encumbrances. Moreover, the present writ petition has been filed on 02.02.2015 i.e. after a delay of 25 years since the award was passed on 06.02.1990.

Writ petition along with the pending applications is dismissed.

(RITU BAHRI)
JUDGE

04.08.2022
Divyanshi

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No