

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25268-2021

Reserved on: 15.09.2022

Pronounced on: 30.09.2022

Sanjeev Kumar and another

....Petitioners

V/s.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. Sushil Sheoran, Advocate  
for the petitioners.

Mr. Saurabh Mago, A.A.G., Haryana.

\*\*\*\*

**Ritu Bahri, J.**

The petitioners are seeking quashing of the impugned reply dated 18.02.2021 (Annexure P-12) passed by respondent No. 4-Executive Engineer, Bhiwani Water Services Division, Bhiwani, District Bhiwani whereby their land measuring 3 Kanals 2 Marlas comprising in Khasra No. 58/14 min (2-11) 19 min (0-11) situated at village Baganwala, Tehsil Tosham, District Bhiwani was taken into possession illegally by the respondents without proper acquisition proceedings. Further, a direction be issued to the respondents to acquire the said land and pay compensation as per the current market price or in the case of non-acquisition, the possession of the same be handed over to the petitioners.

The brief facts of the case are that the land of the petitioners was acquired by the respondents before passing award dated 28.06.1986 and the construction of sub-minor was also made. However, the respondents neither acquired the land through proper acquisition proceedings nor they

paid compensation. Then, the petitioners filed a Civil Suit No. 416 of 2006 to claim compensation as per market rate alongwith 24% interest. The respondents filed written statement taking stand that the acquisition proceedings will be initiated and the compensation will be given to the petitioners. On the basis of their stand in written statement, the civil suit was decreed on 19.01.2010. Copies of the judgment and decree dated 19.01.2010 have been placed on record as Annexures P-1 and P-2.

The respondent-State of Haryana filed Civil Appeal No. 43 of 2009 on 25.02.2010 which was dismissed on 07.05.2010. Copies of the judgment and decree dated 07.05.2010 have been placed on record as Annexures P-3 and P-4. The respondent-State of Haryana filed RSA-1290-2015 against the judgment dated 07.05.2010 which was dismissed by this Court on the ground of delay vide order dated 24.10.2017 (Annexure P-6). Thereafter, the petitioners filed execution application on 17.01.2015 in which respondents filed objections that they had calculated the amount of the land at the rate prevalent in the year 1985 when they acquired other land. The objections were dismissed vide order dated 11.07.2016 (Annexure P-5). The respondent-department challenged the order dated 11.07.2016 by way of filing CR-6631-2017 which was allowed on 14.05.2018 (Annexure P-7). The petitioners filed SLP(Civil)-23933-2018 against the order dated 14.05.2018 passed in CR-6631-2017 and the respondent-State of Haryana filed SLP (Civil)-11370-2018 against the order dated 24.10.2017 passed in RSA-1290-2015. However, the petitioners withdrew SLP (Civil)-23933-2018 on 14.09.2018 (Annexure P-8) on the ground that they can raise plea in SLP (Civil)-11370-2018. In SLP (Civil)-11370-2018, notice was issued qua the interest only and the said SLP was ultimately dismissed on

01.04.2019 (Annexure P-10).

The grievance of the petitioners now is that the respondent-State of Haryana had neither initiated acquisition proceedings as per the stand taken in the written statement of Civil Suit nor the possession had been delivered to them. The petitioners served legal notice dated 04.01.2021 to the respondents in this regard (Annexure P-11).

The respondent No.4-Executive Engineer Bhiwani, Water Services Division, Bhiwani, District Bhiwani filed reply dated 18.02.2021 (Annexure P-12) to the legal notice dated 04.01.2021. It is stated therein that the compensation had been finalized at the rate when the other land was acquired in the year 1985 which comes to Rs.30,914/- and the department was not liable to hand-over possession as it was part and parcel of Bhutana Sub-Minor and served the public at large.

The petitioners had placed on record judgment passed by Division Bench of this Court in **CWP-11706-2008** titled as ***Paramjit Singh @ Mange Ram vs. State of Haryana***, decided on 17.12.2008 whereby in similar circumstances, the direction was given to the respondent-State to acquire the land after initiating proper acquisition proceedings and assess the compensation from the date of possession. However, the offer of the State to assess the rate of land prevailing in the year 1970 was not sustainable (Annexure P-13). They had further placed on record judgment passed by Division Bench of this Court in **CWP-16819-2010** titled as ***Anant Ram and others vs. State of Haryana and another***, decided on 19.11.2010 in which it was held that the petitioners cannot be forced to accept compensation with respect to the rate prevalent in the year 1989.

On notice, reply dated 29.07.2022 had been filed by respondent

No. 4 on behalf of respondents No. 1,3 and 4. It is stated therein that as per the judgment and decree dated 19.01.2010 (Annexures P-1 and P-2) passed in Civil Suit No. 416 of 2006, the Canal Department was directed to give compensation to the petitioners in respect of the land from the date of possession with interest @ 24% p.a. Against the said judgment, the respondent-State of Haryana filed Civil Appeal No. 43 of 2009 on 25.02.2010 which was dismissed vide judgment and decree dated 07.05.2010 (Annexures P-3 and P-4). The respondent-State of Haryana filed RSA-1290-2015 against the order dated 07.05.2010 which was dismissed by this Court on the ground of delay vide order dated 24.10.2017 (Annexure P-6). Thereafter, the petitioners filed execution application on 17.01.2015 in which respondents filed objections that they had calculated the amount of the land at the rate prevalent in the year 1985 when they acquired other land. The objections were dismissed vide order dated 11.07.2016 (Annexure P-5) by the learned Additional Civil Judge (Senior Division), Tosham, District Bhiwani. The respondents challenged the order dated 11.07.2016 by way of filing CR-6631-2017 which was allowed on 14.05.2018 (Annexure P-7). The petitioners filed SLP(Civil)-23933-2018 against the order dated 14.05.2018 passed in CR-6631-2017 and the respondent-State of Haryana filed SLP (Civil)-11370-2018 against the order dated 24.10.2017 passed in RSA-1290-2015. However, the petitioners withdrew SLP (Civil)-23933-2018 on 14.09.2018 (Annexure P-8) on the ground that they can raise plea in SLP (Civil)-11370-2018. The said SLP was ultimately dismissed on 01.04.2019 (Annexure P-10). In this backdrop, order dated 14.05.2018 (Annexure P-7) passed in CR-6631-2017 has attained finality as the petitioners withdrew SLP (Civil)-23933-2018 on

14.09.2018 (Annexure P-8).

Heard learned counsel for the parties.

The short question for consideration in the present petition is that whether the order dated 14.05.2018 (Annexure P-7) requires to be set aside.

Vide order dated 14.05.2018 (Annexure P-7) passed in CR-6631-2017, this Court had examined the issue whether the petitioners were entitled for compensation as per the judgment passed in *Anant Ram's case* (supra). The petitioners had filed civil suit specifically for grant of compensation as per market rate alongwith 24% interest p.a., which had been granted to them vide judgment and decree dated 19.01.2010 (Annexures P-1 and P-2). The petitioners had not sought compensation at the market rate which existed at the time of filing civil suit i.e. on 01.12.2006. The direction given in the decree dated 19.01.2010 was to pay compensation from the date of possession alongwith 24% p.a. within three months. The possession was admittedly taken in the year 1985 and the compensation had to be given at the prevalent rate in the year 1985 alongwith 24% p.a. from that date. As per the interpretation of the petitioners, the market price is to be taken as more than Rs.34 lacs, and then the interest @24% p.a. from the the year 1985 is to be added, which would come to more than Rs.10 crores for the land measuring 3 Kanals 2 Marlas. The Department had calculated the amount on the basis of compensation given to other land owners at that time. Moreover, the petitioners filed civil suit on 01.12.2006 i.e. after 21 years of possession by the State as the possession was taken in the year 1985. The objections filed by the State of Haryana before the Executing Court were accepted and impugned order

dated 11.07.2016 passed by learned Additional Civil Judge (Senior Division), was rightly dismissed.

Learned counsel for the petitioners has not been able to cite any judgment on the ground that once a decree has attained finality, he can seek benefit in execution by altering his prayer which he did not make in the civil suit. As per the civil suit decree dated 19.01.2010, the defendants (respondents) were directed to give compensation to the plaintiffs (petitioners) from the date of possession within a period of three months alongwith interest @ 24% p.a. The civil suit had not been decreed by giving directions to the defendants (respondents) to acquire land after following proper acquisition proceedings. The consistent stand of the respondents is that they had calculated the compensation amount alongwith 24% p.a. as per the rate given to other land owners when they had taken possession in the year 1985. In this backdrop, order dated 14.05.2018 (Annexure P-7) has attained finality as the petitioners withdrew SLP (Civil)-23933-2018 filed against the order dated 14.05.2018 on 14.09.2018 (Annexure P-8).

Keeping in view of the above facts, writ petition is dismissed.

**(RITU BAHRI)**  
**JUDGE**

**30.09.2022**

**Divyanshi**

**(NIDHI GUPTA)**  
**JUDGE**

**Whether speaking/reasoned:**

**Yes/No**

**Whether reportable:**

**Yes/No**