

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

CR No.3398 of 2021

Date of decision: 29th April, 2022

Vimla Devi & another (both deceased) th. LRs

... Petitioners

Versus

Municipal Committee/Council, Jalalabad & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. C.M. Munjal, Advocate for the petitioner.

Mr. Puneet Kansal, Advocate for respondent No.1.

None for remaining respondents.

FATEH DEEP SINGH, J.

The then petitioners Vimla Devi and her husband Harkishan Lal (now both deceased and being represented through their sons) have come up in this revision petition against Municipal Committee/Municipal Council, Jalalabad (West) (in short, 'the Committee'). The brief background of this litigation is that the Committee in the year 1997 had carved out streets and in the process illegally and without any authorization and without adopting due process of law had taken over 5 Kanals of land belonging to the petitioners for which they did not even compensate them. On 28.12.1987, the petitioners filed a suit for mandatory injunction directing the Committee to assess the compensation and which suit was dismissed by the trial Court vide order dated

21.12.1993. The first appellate Court vide its judgment and decree dated 19.11.2019 though dismissed the appeal but modified the order directing the Committee to implement the building scheme in letter and spirit. RSA was disposed off by this Court on 12.05.2000 and on 12.12.2020 the Committee filed an SLP before the Supreme Court which remitted back the matter for deciding the appeal afresh. This Court in RSA No.1872 of 2000 vide judgment and order dated 23.12.2000 directed the Committee to assess the compensation and pay the same to the petitioners. Again the Committee preferred an SLP on 17.08.2009 before the Supreme Court and this SLP bearing No.21854 of 2009 was dismissed and so its review. It is subsequent thereto on 13.04.2011 the petitioners filed a representation before the Deputy Commissioner directing the SDM for immediate action.

When nothing transpired, on 28.07.2011 contempt petition was filed against the Committee for non compliance of the orders of the High Court and the Supreme Court. The Committee in its reply admitted and undertook to assess the compensation and to pay the same. In spite of the same, nothing material transpired and the execution was filed before the Executing Court at Jalalabad on 28.07.2012 to which the Committee filed objections and it was after a long battle on 03.07.2014 Land Acquisition Collector cum SDM Jalalabad made a statement before the Executing Court that publication of notification for acquisition of the land has been forwarded to the Director, Local Govt. Punjab and in

between all sorts of recourses were adopted by the Committee to dilly-dally the matter and in spite of the orders having elapsed after filing of the execution application, nothing transpired and which kept on being adjourned on one pretext or the other and the application under Order 21 Rule 32 CPC remained in limbo throughout.

A civil revision was filed before this Court bearing No.352 of 2021 for expediting the execution process but to no avail and this is precisely the relief that the present revisionists are seeking in terms of Article 227 of the Constitution of India for directing the Executing Court Jalalabad (West) to dispose off the application under Order 21 Rule 32 (2) CPC read with Order 21 Rule 11 CPC in a time bound manner.

Upon hearing Mr. C.M. Munjal, Advocate for the petitioner; Mr. Puneet Kansal, Advocate representing respondent No.1 and perusal of the records.

What one can decipher that since the year 1987 the revisionists are being put to undue harassment by the Committee and the officers manning the same in the Headquarters and after 39 years the poor litigants are still seeking justice after having won the battle and so passing away of the main litigants leaves an indelible mark on the insolence and the casual approach of the Courts in not coming to the aid of a litigant who in spite of having won his battle is still unable to reap its benefits.

Since admittedly it is the established and proven fact that the revisionists are owners of the land which the State had usurped on its own by mere illegal exercise of its powers against the canons of justice and thus, undermines the very due process of law and dispensation of justice. This Court is perturbed over the manner of such illegal acts of the State authorities. Even when earlier on many occasions such peculiar circumstances had come to the notice of the Court where the poor citizens are left to fend for themselves and unable to ensure due protection of live, liberty and property of which they have been robbed off by the dictatorial attitude of the authorities, is in itself stark reminder as to where a welfare State is heading for. The acts of the officials of the Committee and their senior officials are intentional culpable acts of arrogance and who being bestowed with greater responsibilities to run the State and for its better governance are by mere misuse of their powers trying to plague the system and tormenting its citizens. The State has virtually remained in oblivion to its constitutional obligations and has tried to not only deny the petitioners of their legitimate rights acknowledged by the law but have tried to hoodwink the law as well.

Keeping in view this sad state of affairs impels this Court to allow the instant revision petition in exercise of powers of this Court under Article 227 of the Constitution of India and direct the respondents to immediately within a period of one month from passing of this order assess the compensation to which the petitioners are entitled at the

prevalent market rate and to pay interest @ 9% p.a. from the date when the land was illegally taken over in the year 1997 till realization of the amount. The interest component though shall be initially paid by the Municipal Committee/State however, the latter shall reserve its right to recover the same from its officers responsible for these acts as arrears of land revenue to ensure that this undue economic burden is not put upon the State to which every one of us is contributing. Further the Executing Court is directed to execute and implement the orders dated 23.12.2008, 19.09.2015 and 19.11.2019 within a period of one month from the date of receipt of a certified copy of this order by the Executing Court. It would be the bounden duty of the counsel representing the respondent Committee to transmit copy of the order immediately.

Present petition stands disposed off in those terms with special costs of ₹ 50,000/- for unnecessary litigation to which the petitioner/decreed holders have been put to by the respondent/judgment debtors to be paid by the Committee.

(FATEH DEEP SINGH)
JUDGE

April 29, 2022
rps

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