

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

CWP-8509-2016

Date of decision : 09.02.2023

Surjit Kaur and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kulwinder Singh, Advocate
for the petitioners.

Mr. Charanpreet Singh, AAG, Punjab.

Mr. Bhupesh Dogra, Advocate
Ms. Pallavi Pahwa, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

Fresh vakalatnama has been filed on behalf of the petitioners with no objection from the previous counsel, which is taken on record.

LRs of Gurdial Singh have been impleaded. Writ Jurisdiction of this Court has been invoked seeking writ in the nature of mandamus directing the respondents to grant rehabilitation allowance/one time self employment grant to the tune of Rs.2 lacs each in terms of the Policy Decision of the Punjab Government in respect of acquisition of land for Talwandi Sabo Thermal Power Plant, Village Banawala, Tehsil and District Mansa.

Gurdial Singh S/o Jagittar Singh, the predecessor-in-interest of the petitioner, was owner in possession of 1/8th share of land measuring 4 kanals 4 marlas comprised in Mustil/Killa No.34//22/2(2-0), 51//2/2(2-4) situated within the revenue estate of village Peron, Tehsil and District Mansa.

Gurdial Singh died on 10.10.1997. Death certificate issued by competent authority certifying the date of death of Gurdial Singh has been placed on record as Annexure P-1. However, mutation with respect to inheritance of Gurdial Singh could not be entered in the revenue record. State of Punjab vide its notification bearing No.10/5/2007-US6/10316 dated 02.07.2007 under Section 4 of the Land Acquisition Act, 1894 initiated acquisition of land measuring 2100 Acres 07 kanals and 19 Marlas for a public purpose namely Talwandi Sabo Thermal Power Project. Acquired land includes land of the petitioners as well.

In the meeting of Council of Ministers, State of Punjab, held on 10.10.2007, a Cabinet of Sub Committee was constituted to consider and decide the compensation and relief/rehabilitation measures *qua* the land owners. The Cabinet Sub Committee under the Chairmanship of The Chief Minister, Punjab on 23.10.2007, resolved that the compensation *qua* the acquired land should be given in the following terms:-

- | | |
|-------------------------|-------------------------|
| 1. Nehri/Chahi | Rs.10,40,000/- per acre |
| 2. Barani/Makhloot Land | Rs.6,90,000/- per acre |
| 3. Gair Mumkin Land | Rs.12,80,000/- per acre |

It was further decided in the said Meeting that one time self employment grant may be given to all those land owners whose land is proposed to be acquired in the following terms:-

- (i) Owners who own land upto 2 acres: Rs.2.00 lac per owner
- (ii) Owners who own land more than 3 acres: Rs.3.00 lac per owner

The petitioners, apart from the compensation thus also became entitled for one time self employment grant of Rs.2 lacs, being owners in possession of land less than 02 acres.

Facts are not much in dispute, the only issue is whether the petitioners are entitled to receive Rs.2 lac each or one time self employment grant on the same has to be paid in the name of Gurdial Singh and thereafter, distributed amongst his LRs as has been done by the State.

The reason afforded by the State in its reply filed by way of an affidavit of Sarabjeet Kaur, PCS, Sub-Divisional Magistrate, Mansa, District Mansa, is as under:-

'That on Dated 12.06.2008 Mutation of Inheritance No.5121 dated 12.06.2018 in respect of inheritance of deceased Gurdial Singh son of Jagittar Singh was sanctioned in the revenue record, whereby, the petitioners were recorded to be the owners in possession of the land owned by Gurdial Singh son of Jagittar Singh, being legal heirs. However, it will be not out of place to mention here that at the time of acquisition of above mentioned land in dispute and before the sanction of mutation of inheritance of Gurdial Singh son of Jagittar Singh i.e. Mutation No.5121 Dated 12.06.2008, as per revenue record, the acquired land stood in the name of Gurdial Singh son of Jagittar Singh and considering the revenue record available at that time compensation amount was paid to the owner of the acquired land and in case the owner of the land had passed way, the compensation amount was paid to the legal heirs of the deceased, whose land was acquired and it is worthy to mention here that compensation amount can only be paid to the person in whose

name ownership of acquired land stands and in case of death of the owner of the land, the same is paid to the legal heirs of the owner of the land as per their respective shares and as per actual facts at the time of acquisition of above mentioned land name of none of the petitioner stood in the ownership column in the revenue record in respect of the acquired land in dispute i.e. 4 Kanal 4 Marlas and hence now the petitioner are not entitled for any alleged relief/compensation as prayed by them from this Hon'ble Court'.

The entitlement to one time grant of the land owners who could not be recorded as owners due to non-recording of mutation has been dealt by Division bench of this Court in CWP-17772-2007, in a matter, related to the same project. While rejecting the stand of the State, as taken in the present case, Bench held as under:-

- 5. The only plea taken by the respondents in their reply/affidavit is that the land owned by late Bharpur Singh was never mutated in favour of the petitioners as on 02.07.2007 when Section 4 notification was issued and thus they were not recorded as owners of the land, hence each one of them is not entitled to seek compensation of Rs.2.00 lac and only Rs.2.00 lac are admissible to the recorded owner, namely, late Bharpur Singh.*
- 6. Having heard learned counsel for the parties and after going through the record, we are of the considered view that the claim of the petitioners must succeed. We say so for the reason that inheritance does not remain in abeyance. It is not in dispute that Bharpur Singh passed away on 13.11.2000. The law of succession immediately became operative and the petitioners or other legal heirs of deceased Bharpur Singh stepped into his shoes,*

succeeded to the estate of Bharpur Singh. The non-recording of mutation in favour of the petitioners is of no consequence as mutation does not confer any title. The fact of the matter is that each one of them was owner of the land measuring less than 3 acres proposed to be acquired vide notification dated 02.07.2007. Since the share of each petitioners in the acquired land of deceased Bharpur Singh was less than two acres, they are indeed entitled to additional compensation of Rs.2.00 lac each in terms of the above stated Government Policy.

7. *The justiciability of the policy dated 23.10.2007 is not an issue as admittedly the eligible landowners have been granted additional monetary benefits/compensation in terms of the said policy. In those cases where mutation had been sanctioned in favour of the legal heirs before issuance of Section 4 notification, the benefit of aforesaid policy has been granted. The petitioners, thus, cannot be subjected to hostile discrimination merely because mutation was not sanctioned in their favour at the time of issuance of Section 4 notification, though their predecessor-in-interest had died seven years before the proposed acquisition.'*

In view of the aforesaid settled law, this Court finds that the present writ petition deserves to be allowed. The respondents are directed to pay additional compensation of Rs.2 lacs to each of the petitioners. Any other legal heir of Gurdial Singh, which has not been associated in the present writ petition, would also be entitled for the same amount. The amount be paid to the petitioners-legal heirs of Gurdial Singh, within a period of 03 months from the date of receipt of certified copy of this order along with interest @ 6% per annum. In case

the same is not paid within the stipulated period of time, the amount shall carry an interest of 12% per annum for the delayed period which shall be deductible from the pocket of Land Acquisition Collector, Mansa. Any amount already paid shall be adjusted.

09.02.2023
ps-I

(PANKAJ JAIN)
JUDGE

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