

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

111

CWP-26933 of 2023

Date of Decision:01.12.2023

RASHMI ARORA AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB & ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

HON'BLE MS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Aayush Gupta, Advocate,
for the petitioners.

Mr. Maninder Singh, DAG, Punjab

SURESHWAR THAKUR, J. (Oral)

1. In the instant petition, the petitioners pray for determination of compensation in terms of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The above prayer is rested upon Annexure P-1, wherein, apart from the present petitioners rather other co-owners concerned are declared to be jointly owning the suit property.

2. Furthermore, the learned counsel appearing for the petitioners has argued, that since this Court while drawing a decision on 12.12.2006, upon, Civil Writ Petition No.13593 of 2006 (O&M) had made the hereinafter

extracted directions upon the respondents concerned:-

“In this writ petition, the petitioners have prayed that directions be issued to the respondents to sanction building plan, submitted by them, within a stipulated period.

Admittedly, building plan was submitted in the month of November, 2001. After notice, reply has been filed and by referring to document Annexure P/18, counsel for respondents NO.2 and 3 states that the matter is pending consideration before the government. It has further been said that area needs to be demarcated at the spot. Be that as it may, it is duty of respondents No.2 and 3 to pass an order, earlier way, regarding the building plan submitted by the petitioners so that they may avail an appropriate remedy, if need be.

Counsel for the petitioners is directed to supply a copy of the writ petition to the State counsel during course of the day.”

3. Moreover, when in pursuance to the said made directions (Annexure P-4) became passed in the year 2008. Therefore, he argues that when the therein dispute, was with respect to the lack of sanction, being granted by the authorities concerned, qua the building plan, thus submitted by them, before the authority concerned. The learned counsel for the petitioners further argues, that since in Annexure P-4, it is mentioned, that the disputed lands are being used as public place, thus without any hinderance. Therefore, it is contended, that the said speaking made in Annexure P-4, does making plain echoings, that thereby the disputed land are subjected to public user. Consequently he argues, that thereby the above espoused relief be granted to the present petitioners.

4. However, the above made argument is rejected. The reason for

rejecting the above made argument become rested, upon, the factum that the counsel for the petitioners, has remained oblivious qua the factum that the above made order rather became rendered, thus prior to the rendition of a declining decree by the learned Civil Judge (Jr. Division), Ludhiana (Annexure P-6).

4. The plaintiffs in Annexure P-6, had claimed the rendition of a decree of permanent prohibitory injunction, for thereby restraining, the defendants therein, some of whom are also the petitioners herein, and who are recorded in the record of rights to be co-owning the suit property, from interfering in their possession over the disputed lands, rather on the premise that they are used for a public purpose.

5. The aggrieved plaintiffs filed an appeal thereagainst before the appellate court concerned. However, the learned appellate court concerned, proceeded to, after affirming Annexure P-7 as became rendered by the learned trial Judge concerned, thus, dismiss appeal bearing No. 981 of 2015.

6. Be that as it may, despite concurrent verdicts of dismissal becoming recorded against the plaintiffs in the civil suit (supra), rather both by the learned trial Judge concerned and by the appellate court concerned. Yet, the plaintiffs therein did not assail the said verdicts through filing a Regular Second Appeal before this Court. Consequently, the verdict of dismissal, as, made upon the plaintiffs' suit, thus arraying therein, the defendants, who are the petitioners before this Court, rather acquires binding and conclusive effect.

7. Nonetheless for determining, whether the writ relief can be

granted to the present petitioners, it is imperative to also refer to the findings, as became concurrently recorded by both the learned Civil Judge concerned, and, by the learned appellate court concerned.

8. In determining the aforesaid, an allusion is deemed necessary to become made, to the discussions which occur in paragraph 25 of the Annexure P-7. A reading of the said observations, reveals that the Municipal Corporation, Ludhiana, had stated that the suit property therein, which is also the property in dispute in the instant writ petition, rather never became declared as a park, given the said proposal, becoming dropped by the Municipal Corporation concerned, vide, an order made on 29.11.1999. Therefore, but obviously the above finding also led to a consequential finding, that the decree for permanent prohibitory injunction, as claimed by the plaintiffs, in the said suit against the defendants, who are the petitioners before this Court, and, as relating to the suit land therein, which are also the writ lands, thus are not used for public purpose, inasmuch as, for performance of religious functions, thus is amenable to become declined.

9. The said declining verdict made on the plaintiffs' suit, for reason (supra) has acquired finality and conclusivity. Resultantly, the above observations but also acquire binding and conclusive effect.

10. Further, the resultant effect of the above, is naturally that, the claim made in the writ petition, that the petition lands are used for public purpose inasmuch as, for the holding of the religious functions thereon, but is completely misfounded. Consequently, the present petition is accordingly dismissed.

11. Nonetheless, the owners concerned may consider to utilize the lands in any manner as they deem fit and appropriate. Furthermore, any building plans submitted by the petitioners concerned, before the competent authority, be accorded sanction, but in accordance with law. The said building plan(s) if already submitted, thus thereons valid speaking order shall be recorded within two months hereinafter.

12. Pending applications, if any, also stand disposed off.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 01, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No