
(2016) 01 P&H CK 0125
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 21100 of 2013 (O&M)

Gurdev Singh & Ors.

APPELLANT

Vs

State of Punjab & Ors.

RESPONDENT

Date of Decision : 18-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4

Citation : (2016) 3 LAR 13 : (2016) 1 LawHerald 614 : (2016) 4 RCRCivil 675

Hon'ble Judges : Surya Kant;P.B. Bajanthri, JJ.

Bench : Division Bench

Advocate : Mr. KK Gupta, Addl. AG Punjab Mr. Shekhar Verma, Advocate for GMADA, for the Respondent

Final Decision : Disposed Off

Judgement

Surya Kant, J. (Oral)- This order shall dispose of CWP Nos.21100, 21225, 25153 and 25175 of 2013 as the point in issue involved in all the cases is similar. The facts are being extracted from CWP No.21100 of 2013.

2. The petitioners claim themselves to be the residents of village Lambian, Tehsil and District Mohali.

3. Vide notification dated 15.12.1992 issued under Section 4 of the Land Acquisition Act, 1984, land and existing structures within the revenue estate of village Lambian were notified for acquisition and those properties were finally acquired vide award dated 22.2.1995.

4. Since the persons in occupation of residential houses or commercial shops were to be uprooted, a special Rehabilitation Package-cum-Policy was evolved on 01.06.2001 under the Chairmanship of Minister-in-charge, Department of Housing and Urban Development.

5. The aforesaid policy recites that the benefits thereunder were meant for the persons whose "land stands acquired since long but physical possession could

not be taken". The other salient features of the policy are to the following effect:-

"[i] Rehabilitation scheme for the original residents/original landowners of village Lambian will be undertaken in Sector 71, SAS Nagar in the area kept as reserved along with the village Mataur.

[ii] xx xx

[iii] The number and area of residential plots to be allotted [based on survey] is as under:-

Sr.No.

Present land holding/ land ownership

Area to be allotted

No. of units

1.

Upto 100 sq.yards

50 sq.yards

57

2.

101-250 sq.yards

100 sq.yards

13

3.

251-450 sq.yards

150 sq.yards

4

4.

451-604 sq.yards

250 sq.yards

1

5.

605-998 sq.yards

300 sq.yards

2

6.

999-1240 sq.yards

400 sq.yards

1

7.

1241 and above

500 sq.yards

1

[iv] xx xx

[v] xx xx

[vi] xx xx

[vii] In case of commercial plots one Booth site of 8"x12" will be allotted to each land owners/original resident having total land under commercial use @ RS. 6000/- per square yard to be paid as per [v] above.

[viii] xx xx

[ix] Land owners will draw the amount of the land compensation already deposited by PUDA in the Court. No more additional compensation due to interest, structure and trees shall be paid for the land by PUDA".

6. It may be seen from the object of the policy that it was formulated to redress the grievances of the "original landowners/original residents of village Lambian who were in illegal possession of PUDA land". There appears to be no dispute that the agricultural land of the petitioners was earlier acquired by the State of Punjab for development of urban-areas in SAS Nagar Mohali. Thereafter, they are said to have taken possession of the "shamlat land" constructed their houses. As the said "shamlat land" was also acquired vide above-stated award that the petitioners claimed benefits under the special Rehabilitation Policy, referred to above.

7. A bunch of the writ petitions filed by different residents of village Lambian wherein they have set out their own facts were disposed of by this Court vide order dated 17.10.2012 passed in CWP No.12433 of 2011 (Nasib Singh v. State of Punjab and Ors.) (P11) whereby a Committee headed by the Secretary-cum-Legal Remembrancer to Government of Punjab along with Chief Administrator and Additional Deputy Commissioner (General), SAS Nagar Mohali was constituted to determine the individual claims after scrutiny of record.

8. The said Committee has turned down the claim of petitioners for allotment of site on the ground that they were not "owners" of the shamlat land which was

owned by Gram Panchayat.

9. There can hardly be any quarrel that "shamlat land" as defined under Section 2(g) of the Punjab Village Common Land (Regulations) Act, 1961 vests in the Gram Panchayat under Section 4 of the said Act. The individual proprietors or residents of the village have no claim qua such land except that the same is required to be used for common purposes. However, in the event of its acquisition, it is the Gram Panchayat who alone is entitled to seek compensation. In these circumstances, the view formed by the Committee that the petitioners have no vested right to seek benefit under the rehabilitation policy merely on the ground of raising construction on shamlat land, does not call for any interference. The claim of the petitioners is accordingly rejected.

10. However, if the petitioners have not been granted any benefit under the "Oustees" quota in lieu of the acquisition of their agricultural land (Oustees Policy formulated by the State of Punjab is other than the special policy formulated for village Lambian), in that event, the respondents are directed to consider the claim of the petitioners for allotment of plots in lieu of acquisition of their agricultural land under the oustees policy and/or as a special case under the rehabilitation policy, if so permissible. In case the authorities decide to accept the claim, the allotment shall be made in accordance with 2012 rate as already directed in CWP No.20232 of 2013 titled as Rajinder Pal Goyal and Ors. v. State of Punjab and Ors. decided on 31.08.2015.

11. Let the claim of the petitioners be considered and decided within three months from the date of receipt of a certified copy of this order.