

(2011) 03 P&H CK 0036
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4964 of 2011

Gurmej Singh and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 23-03-2011

Acts Referred:

Gram Panchayat Act — Section 30
Land Acquisition Act, 1894 — Section 4, 6

Citation : (2011) 03 P&H CK 0036

Hon'ble Judges : Rakesh Kumar Garg, J; Jasbir Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Jasbir Singh, J.—Petitioners claim that they are the owners of land, which was acquired by issuing the notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, the Act) way back in the years 1996/1997 respectively. An award was passed on 28.7.1999. It is their case that despite an award having been passed, they being the owners, the Collector with mala fide intention, had not disbursed the amount of compensation to them.

2. It is not in dispute that as per the revenue record, the land was shown as Panchayat deh when it was put under acquisition, Jumla Mushtarka Malkaan of the village was shown in possession, nature of the land was banjar kadim and it was reserved for charand. If the Collector had taken note of the entries in the revenue record, existing at the time when land was acquired, he would have immediately disbursed the amount of compensation to the Gram Panchayat, which was shown as owner as per record. This was not done. The compensation amount continued lying deposited with the Land Acquisition Collector.

3. It appears that in the year 2005, a mutation entry was incorporated in the name of the land owners, showing them as owners of the land. Prior thereto, there was no such entry in the revenue record. As per established law, when an award was passed in the year 1999, if the Petitioners were claiming any interest

in the land under acquisition, they should have moved an application u/s 30 of the Act for apportionment of the compensation or to claim the entire amount of compensation. This was not done. They kept on sleeping and after sanctioning of mutation entry in their favour, they went to the Court of Additional District Judge, Ambala, claiming execution of the award, mentioned above, though such an application was not competent. As per facts on record after the notifications, mentioned above, vide notification dated 23.12.2005, another piece of land owned by the Gram Panchayat was acquired. The compensation was assessed for the same. When it was not released in their favour, the Petitioners came to this Court by filing CWP No. 573 of 2009, which was allowed in their favour vide order dated 20.4.2010. If the Petitioners were aggrieved by an action of the Collector for not releasing compensation in their favour, for the land which was acquired way back in the year 1996, they should have included their claim, in that regard also in the writ petition earlier filed by them i.e. CWP No. 573 of 2009. There is nothing on record to show that the Petitioners have approached the Collector before 2007 to claim the compensation amount or had moved a fresh application for apportionment of the same. Even till today, it has not been done. When this matter came up for hearing on, orally we asked the State counsel to get information as to why the compensation has not been released. Today in Court, Ms. Palika Monga, DAG Haryana has produced copy of a letter written by the Sub Divisional Officer(C)-cum-Land Acquisition Collector, Ambala to the District Judge, Ambala dated 21.2.2011 i.e. referring an application filed by the Gram Panchayat, u/s 30 of the Act, for adjudication. It is also mentioned in the letter that amount of compensation has been deposited with the reference application through a bank draft. If that is so, possibly this Court cannot issue any direction at this stage. Otherwise also, at this belated stage, once the Petitioners have failed to take any action within the stipulated period, no relief can be granted to them. Delay even defeats equities. The Petitioners after 11 years cannot claim amount of compensation to which they should have raised their claim immediately when award was passed, at the maximum when mutation was entered in their favour. There was one more opportunity with them, to claim this relief, when they filed earlier writ petition in this Court in the year 2009 to get compensation amount regarding another piece of land. That was not availed.

4. No case is made out for interference.

Dismissed.