

THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, C.J.

Justice Amin-ud-Din Khan

Justice Athar Minallah

Civil Petition No.386-L of 2021

(Against the judgment dated 26.10.2020 of the Lahore High Court, Lahore passed in C.R. No.2852 of 2009)

*Province of Punjab thr. the Deputy Commissioner,
Collector District Gujranwala and others ...Petitioners*

Versus

Zulfiqar Ali and another ...Respondents

For the petitioners: Mr. Baleeg-uz-Zaman, Addl. A.G. Punjab

For the respondents: Not represented.

Date of hearing: 13.11.2023

ORDER

Qazi Faez Isa, CJ. On nine *marlas* of land a road was constructed by petitioners. However, since no compensation was paid for the said land nor was it acquired pursuant to the Land Acquisition Act, 1894 (**'the Act'**), the owner filed a suit in the year 1997 and though the suit was dismissed the appeal against the same was allowed on 19 September 2009 and the judgment of the appellate court was upheld through the impugned judgment.

2. We inquired from the learned Additional Advocate General (**'AAG'**) whether the land was compulsorily acquired under the Act, was gifted or an agreement was entered into with the owner of the land and the learned AAG answered in the negative. Nonetheless the petitioners have deemed it fit to assail the order of the High Court. The petition for leave to appeal has been signed by two AAGs, namely, Malik Abdul Aziz Awan and Mr. Asif Afzal Bhatti on 3 February 2021. The AOR was engaged by Mr. Bahadur Ali Khan, Secretary of the Government of the Punjab (Law & Parliamentary Affairs), Department.

3. This is a classic example of frivolous litigation, and that too by those whose salaries are paid by the taxpayers of the country. It appears that the ability to take a decision, whether to assail or not a decision does not exist in senior officers. They deemed it fit to challenge a matter of little financial significance and do so contrary to the provisions of the Constitution of the

Islamic Republic of Pakistan which guarantees as a fundamental right the right to acquire, hold and dispose of property (Articles 23 and 24), and being oblivious to the fact that a person can only be compulsorily deprived of property provided compensation therefor is paid.

4. This is the fourth Court before which the Government of Punjab is a party, and it pleads by disregarding the Constitution and the law. Not only have public resources been wasted, but also Court time, both of which are a trust held on behalf of the people. The respondents who were deprived of their land must have spent money and time with regard to a case which should have never seen a court of law, provided the petitioners had abided by the Constitution and the law. Whilst counsel of private parties are accountable to them, and may resort to unnecessary litigation, this is not expected from the petitioners. The Government of Punjab and every employee of it, including those in the office of the Advocate-General run on public funds, therefore, one expects a much higher standard from them. The government and its servants are there to serve the people. In this case, land was taken without compensating the respondents. Therefore, whilst declining leave and dismissing this petition, we direct the Government of Punjab to pay to the owners of the land, requisite compensation, within a period of thirty days from the receipt of this order and in addition also pay to them one million rupees as costs. Copy of this order be sent to the Chief Secretary, Punjab, and to the petitioners No.1 and 2 for information and compliance. Copy of this order be also sent to the respondents for information.

Chief Justice

Judge

Judge

Islamabad
13.11.2023
M. Azhar Malik/*

Approved for reporting.