

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

Civil Revision No.1248 of 2014 (O&M)

Date of decision:03.03.2015

Mandeep Son of Shri Mange Ram, resident of Village Raipur, Tehsil and District Sonapat, now residing at Sector 12, Sonapat, and another.

... Petitioners

versus

Mange Ram son of Mouji son of Dulle, resident of Village Raipur, Tehsil and District Sonapat, and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Arvind Kashyap, Advocate,
for Mr. Ravinder Singh Budhwar, Advocate,
for the petitioners.

Ms. Ritu Bairagi, Advocate,
for Ashok Khubbar, Advocate,
for respondent No.1.

Mr. Ram Pal Verma, Advocate,
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment ? **Yes.**
2. To be referred to the reporters or not ?**Yes.**
3. Whether the judgment should be reported in the digest ?**Yes.**

K.Kannan, J. (Oral)

1. The revision petition is against the dismissal of the petition for impleadment in a reference before the court for adjudging the adequacy of compensation under Section 18 and for the resolution of dispute under Section 30 of the Land Acquisition

Act. The claim for compensation was made by a purchaser from the father and when the proceedings were pending, the sons of the vendor sought for impleadment contending that the father did not have an absolute right to sale the property and the compensation assessed must be done in their presence and the adjudication regarding title shall be undertaken to assess their own right in the property. The application for impleadment was dismissed and hence, the revision petition.

2. The Land Acquisition Act is a complete Code in itself in matters relating to adjudication of right in the property for which compensation is assessed after acquisition as well as for determining the quantum of compensation. The Act bars any separate action which could be disposed of by a court of reference. If the reference was not merely under Section 18 but also under Section 30 of the Land Acquisition Act, it only meant that the court was bound to enter an adjudication on the person who was entitled to be paid the compensation. If a purchaser from a father stakes his claim on such a purchase, the validity of such a purchase and the determination of whether sons were also entitled to be paid, was not an issue alien to the scope of Section 30. When an objection was brought from sons, the reference court itself ought to have invited the Land Acquisition Collector to make a reference for adjudging rights of the third party applicants. The court could not have dismissed the petition.

3. The counsel for the respondent cites before me some decisions of the court which I do not feel constrained to reproduce, for, they deal with issues relating to the manner of assertion of rights of pre-emption under Section 22 of the Hindu Succession Act. The sons that challenge a sale contending that the property belongs to joint family and the father did not enjoy an unrestricted right of the father to sale, do not do so in exercise of a right under Section 22, but as a right which they exercise under the Customary Hindu Law, which is Mitakshara as applied throughout India. The order of the court below is erroneous and it is set aside. I direct the Land Acquisition Collector to make an appropriate reference to also adjudge a claim of the petitioners before this court. This is merely to fulfill a formality of taking on board the sons who are entitled to an adjudication before the court of the validity of sale by the father as regards the share claimed by them and the character of property as contended by the petitioners as joint family properties.

4. The civil revision is allowed on the above terms.

(K.KANNAN)
JUDGE

03.03.2015
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