IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No.25318-CII of 2015 in/and
CR No.2245 of 2013 (O&M)
Date of decision: 10.12.2015

Surinder Singh and others

...... Petitioners

Versus

State of Punjab

...... Respondent

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

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

Present : Mr. Hemant Sarin, Advocate for the petitioners.

Mr. Rajesh Mehta, Addl.A.G. Punjab.

ARUN PALLI, J. (Oral)

CM No.25318-CII of 2015

Application is allowed as prayed for and reply is taken on record.

CR No.2245 of 2013

Vide order being assailed dated 27.10.2012, learned Executing Court had partly allowed the execution petition preferred by the petitioners-decree holders and an amount of ₹15,29,955/- deposited by the State was ordered to be disbursed to the petitioners-landowners. Being aggrieved, the petitioners-decree holders are before this Court.

Vide a notification issued under Section 4 of the Land Acquisition Act, 1894 dated 29.12.1978, land measuring 7.43 acres, including 5 kanals 6 marlas, owned by the petitioners was acquired for canalizing Nasrala Choe between City Bridge and bye-pass bridge and for providing embankment on both the sides. It is contended that in a regular first appeal preferred by the petitioners, learned Single Judge vide judgment dated 21.08.1989, had assessed the compensation at ₹680/- per marla for the acquired land. For, as a consequence of the acquisition a portion of the land owned by the land owners i.e. 94 kanals 1 marla was since rendered useless, a sum of ₹340/- per marla was ordered to be awarded for the unacquired land. However, it is submitted that the Division Bench in a LPA No.555 of 1990 preferred by the petitioners, vide order dated 7.10.1997 (Annexure P-1), ordered compensation at ₹680/- per marla even for the unacquired land. The operative part of the order reads as thus:-

> **"During the course of arguments a consensus has been arrived at between the learned counsel representing the parties. Mr. G.S.Grewal, Advocate General Punjab has stated that even the unacquired land of the petitioner may as such be held to have been acquired on a date when notification under Section 4 with regard to acquired land was issued and the claimants be given compensation at the same rate i.e. the one assessed by the learned Single Judge with all other benefits but for the one as is admissible under Section 23(1-A) of the Land Acquisition Act. It appears to us that Mr. G.S.Grewal, the learned Advocate General has made the statement as the**

same is in the interest of the State. The State does not benefit to pay compensation even to the extent of 50% if the land still continues to belong to the claimants and even if the land may not be put to any use by the claimants the same can certainly be used for some purpose by the State. Mr. M.L.Sarin, the learned counsel representing the appellant accepts the statement made by Mr. Grewal and has also prayed that the unacquired land of the claimants be deemed to have been acquired and that notification for that purpose be deemed to have been issued under Section 4 on December 29, 1978 and the claimant-appellants be given compensation at the same rate i.e. Rs.680/- per malra with other statutory benefits as held by the learned Single Judge sans benefit permissible under Section 23(1-A) of the Land Acquisition Act.

In view of the consensus arrived at between the parties, the unacquired land of the claimant-appellants shall be deemed to have been acquired and notification under Section 4 is, thus, deemed to have been issued on December 29, 1978, the appellant-claimants are held entitled to compensation at the rate of Rs.680/- per marla and all other statutory benefits as granted to them by the learned Single Judge but for the benefit that is admissible under Section 23(1-A) of the Land Acquisition Act".

Learned counsel for the petitioners contends that although they have been granted compensation for the land i.e. 5 kanals 6 marlas, that was acquired at ₹680/- per marla but as the total land owned by the petitioners was 99 kanals 7 marlas, even for the balance i.e. 94 kanals 1 marla (unacquired land) the petitioners were to be awarded compensation at ₹680/- per marla in terms of the order dated 7.10.1997, passed by the Division Bench, however, they have only been awarded compensation at ₹340/- per marla.

Per contra, learned State counsel submits that the order passed by the Division Bench dated 7.10.1997 has been complied with in letter and spirit and the only amount petitioners were entitled to was ₹15,29,955/- which has since been deposited.

I have heard learned counsel for the parties and perused the paper book. It would be apposite, at this juncture, to refer to the reasons that has been assigned by the Executing Court, to reject the claim of the petitioners, in support of its order:-

> 5. In reply to these objections, there is clear-cut statement of account on the file made by the State in which they have shown the total amount to be paid to the decree holders as Rs.15,29,955/- and they have deposited the same. On the other hand the decree holders are demanding an amount of Rs.40,73,043.90 paise. The perusal of the file shows that the matter went to the Hon'ble High Court and in the order passed by the Division Bench of Hon'ble High Court dated 7.10.1997

it is clearly mentioned that unacquired land shall be deemed to have been acquired alongwith the other land and the rate of the unacquired land was fixed as Rs.680/- per marla. So, it is clear that the matter has been acquired by the Hon'ble High Court at length by the Division Bench of the Hon'ble High Court. **The calculations given by the applicants/decree holders are not according to the judgment passed by the Hon'ble High Court but the calculations submitted by the State of amount of Rs.15,29,955/- are correct".**

Ex facie, the order being assailed is cryptic and bereft of any reasons. The petitioners had set out a specific claim, supported by statement of accounts. And so did the State, for it furnished Form-B that showed that petitioners were entitled to only ₹15,29,955/-. But nothing is indicated as to how the calculations submitted by the petitioners were erroneous and not in terms of the order passed by the Division Bench or how the amount calculated by the State was accurate. That being so, learned counsel for the parties submit that let the order dated 27.10.2012 be set aside and Executing Court be directed to re-decide the matter.

Consequently, the order dated 27.10.2012 is set aside and the matter is remitted to the Court of learned Additional District Judge, Hoshiarpur for re-consideration of the claim of the petitioners/land owners strictly in accordance with law. Parties to the lis shall be at liberty to supplement their respective claims by placing on record any additional material, if so advised. Needles to assert that this order shall not constitute any expression of opinion on the merits of the claim of either of the parties.

Revision petition is disposed of in the above terms.

December 10, 2015 **(ARUN PALLI)**
Manoj Bhutani **JUDGE**