

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

(226)

CR No.2479 of 2014

Decided on: July 21, 2015.

Madan Lal and others

.... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Robin Dutt, Advocate,
for the petitioners.

Mr. Raj Kumar Makkad, DAG, Haryana.

M.M.S. BEDI, J (ORAL)

Vide impugned order dated 01.06.2013, application for execution filed by the petitioners in the capacity as sons of Krishan Lal seeking disbursal of enhanced compensation as co-sharer, has been dismissed.

After hearing counsel for the petitioners as well as learned State counsel, it appears that the father of the petitioners had received the compensation as co-sharer of the land acquired from the Land Acquisition Collector and opted not to file any reference whereas the co-sharers were able to get enhanced compensation @ Rs.8 lacs per acre in place of Rs.5 lacs decided by the Land Acquisition Collector.

The Executing Court has arrived at a conclusion that the petitioners have no legal right to execute the award and were not entitled to enhanced compensation without determining the factual and legal pleas raised before it. A perusal of the reply of the State indicates that the

execution was resisted inter alia on the ground that the father of the petitioners having already received compensation and the petitioners having not been able to prove the ownership and having not approached the District Judge, under Section 18 of the Land Acquisition Act within time limit, were not entitled to any compensation. In para 6, the Executing Court has referred to case law and in para 7 by a cryptic order dismissed the execution application being not maintainable.

I have considered the facts and circumstances of the case and I am of the considered opinion that as per Section 47 of CPC, all the questions arising between the parties to a litigation or their representatives relating to execution, discharge or satisfaction of the decree are required to be determined by the Executing Court and not by a separate suit. The entitlement of the petitioners to execute the decree in the present case appears to be a mixed question of law and fact which is required to be decided by the Executing Court.

The impugned order dated 01.06.2013 is hereby set aside. A direction is issued to the Executing Court to permit the petitioners to determine the following issues:-

- (1) Whether the petitioners are entitled to file execution application in the capacity a co-sharers and are also entitled to receive the enhanced compensation? OP Applicant
- (2) Whether the application for execution is not maintainable on account of father of the petitioners in the capacity of co-sharer having received compensation from Land Acquisition Collector and having not preferred a reference under Section 18 of the Land Acquisition Act? OPR (JD)
- (3) Relief.

Parties are directed to appear before the lower Court on 22.08.2015.

The Executing Court will enable the parties to produce relevant documents and go through the original record. It will be appreciated in case the execution application is decided within a period of one year.

(M.M.S. BEDI)
JUDGE

July 21, 2015
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