

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 3101 of 2015 (O&M)

Date of decision : November 04, 2015

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M/s Varsha Spinning Mills Ltd.

.....Petitioner

Versus

State of Haryana and others

.....Respondents

* * * * *

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Hemant Sarin, Advocate for the petitioner.
Mr. N.K Sharma, DAG, Haryana for respondents no. 1 &
2.
Mr. Deepak Sabharwal, Advocate for respondents no. 3 &
4.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioner has come up in this revision petition against the order dated 21.3.2015 (Annexure P-7) passed by the Additional District Judge, Rewari, whereby his application under Section 151 CPC read with Order 7 Rule 14 CPC for additional evidence has been dismissed.

On 8.7.2004, the State Government issued a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') seeking to acquire 64 kanals 15 marlas of land in Villages Jalalpur, Suthana Jaliyawas, Rudh, Suthani and Chirahara, Tehsil Bawal, District Rewari. Land measuring 19 kanals 17 marlas in Village Rudh owned by the petitioner was included in

this notification. The petitioner had developed A-class construction by making a resort on this land. The Land Acquisition Collector announced the award on 24.5.2006. The petitioner immediately filed a reference petition (Annexure P-1) under Section 18 of the Act seeking enhancement of the compensation awarded by the Land Acquisition Collector. Apart from seeking enhanced compensation of Rs.13,000/- per square yard for its land, the petitioner also sought compensation for its superstructures and for severance. The petitioner thereafter filed an application (Annexure P-2) to produce on record copies of certain gazettee notifications. The respondents filed their reply (Annexure P-3) and contested the said application. Issues in the case were framed on 13.9.2011 and thereafter evidence of the petitioner was closed by counsel for the petitioner on 13.3.2012 after examining witnesses and tendering in evidence sale deeds, jamabandis and khasra girdawari. However, on 30.9.2014 when the case was fixed for rebuttal evidence, application for additional evidence was filed by the petitioner and by way of additional evidence, the petitioner wanted to produce on file copy of some gazette notification and the said application was allowed vide order dated 26.11.2014 and after tendering copies of documents Ex. P-21 to Ex.P-31, additional evidence of the petitioner was closed by counsel for the petitioner. Again, the application for additional evidence was filed by the petitioner with the averments that the documents sought to be produced by way of additional evidence are relevant and necessary for the purpose of effectively deciding the

matter. The petitioner pleaded that gair mumkin factory and hotel are existing in the acquired land. Counsel for the respondent opposed the application of the petitioner on the ground that the documents were already in the knowledge of the petitioner at the time of leading evidence and that the petitioner had already moved application for additional evidence which has already been allowed. Counsel for the respondent prayed for dismissal of the second application. The application of the petitioner was dismissed vide impugned order while observing that the documents sought to be produced as additional evidence were very much in the knowledge of the petitioner when evidence of the petitioner was being recorded.

On May 7, 2015, while appearing before this Court, counsel for the petitioner restricted his prayer to place on record copy of jamabandis for the year 1993-94, 1998-99 and 2008-09 certified copy of sale deed dated 16.4.2004 and letter dated 5.3.2015 received under the Right to Information Act. He further submitted that the attested copies of the revenue record carry a presumption of truth and would not require to be proved by leading any evidence and they would assist in determining the correct market value of the land acquired.

Heard counsel for the parties. While addressing the arguments, counsel for the petitioner referred to a judgment passed by a Coordinate Bench of this Court in **Parvinder Singh vs. Samrinder Kaur, 2015(1) Civ CC 289**, wherein it was held that *production of additional evidence under Order 7 Rule 14 after*

closure of evidence is permissible for just decision of case.

Reference was also made to a judgment in the case of **Mahinder**

Singh vs. A.C.I.G., Ballabgarh and others 2010 (4) PLR 708,

wherein an application was filed to produce on record original documents at later stage as same were not produced at the time of hearing. A coordinate Bench of this Court accepted the plea of applicant that at the time of hearing due to oversight, mistakes and negligence of the counsel, the original documents could not be placed on record. This explanation was held to be a sufficient cause to set aside the order dated 8.6.2010 rejecting the application of the petitioner to produce on record the original documents. Reference was also made to a judgment of Hon'ble the Supreme Court of India in **Kapil Kumar Sharma vs. Lalit Kumar Sharma and another, 2013 (14) SCC 612** wherein an application under Order 7 Rule 14 for filing additional documents was dismissed by the Single Judge and the said order was upheld by the Division Bench on the ground that the matters were ready for hearing and were at the stage of cross-examination and accordingly such prayer could not be granted. Hon'ble the Supreme Court of India allowed the appeal against the said orders by holding *that there is no reason for debarring the appellant from filing additional documents as the cross-examination has not yet commenced.*

Counsel for the respondent, to oppose the contentions of the counsel for the petitioner, has made reference to a judgment passed by Hon'ble the Supreme Court of India in **The Church of**

Christ Charitable Trust and Educational Charitable Society represented by its Chariman vs. M/s Ponniamman Educational Trust represented by its Chairperson/Managing Trustee 2012(3) Civil Court Cases 651 (SC), where a suit had been filed without attaching Power of Attorney with the plaint. Moreover no explanation was given in whose possession the certified copy of the Power of Attorney was and no certified copy of the same was produced. It was held that in the event of absence of attaching the Power of Attorney, the suit cannot be proceeded either for specific performance or for the recovery of money advanced and the dismissal of the plaint under Order 7 Rule 11 was upheld by the Supreme Court.

In the present case, in the acquisition proceedings, the land of the petitioner has since been acquired and he has made a resort on the above said land. The documents he wants to place on record would reflect existence of a hotel on the acquired land and the sale deed dated 16.4.2004 would help in the assessment of the value of the land where such resort has been constructed. The above said documents are necessary for the just fixation of the compensation.

Keeping in view the facts and circumstances of the case and the judgments referred to by the counsel for the petitioner, the impugned order dated 21.3.2015 is set aside and a direction is given to the trial Court to accept copy of jamabandis for the year 1993-94, 1998-99 and 2008-09 certified copy of sale deed dated 16.4.2004 and letter dated 5.3.2015 received under the Right to Information Act

as additional documents.

In view of all that has been discussed above, present
revision petition is allowed.

November 04, 2015
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(**RITU BAHRI**)
JUDGE