

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

**CR No.6813 of 2015 (O&M)
Date of decision: 19.10.2015**

Punjab State through Collector, Gurdaspur
and another

... Petitioners

Vs.

Deso @ Des Raj and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Piyush Bansal, Deputy Advocate General, Punjab
for the petitioners.

AMIT RAWAL J. (Oral)

This order of mine shall dispose of 10 revision petitions bearing Nos.6813, 6814, 6815, 6816, 6817, 6818, 6819 , 6820, 6821 and 7043 of 2015 filed by the State of Punjab against the order dated 28.08.2014 (Annexure P-4).

It would be apt to give preface of the matter for adjudication of the aforementioned revision petitions.

The land measuring 24 kanals 0 marla situated in village Darban Khas, Tehsil Dhar Kalan has been acquired by respondent No.6- Commanding Officer 69, Road Construction Coy (GREF). The land owners did not accept the award of the competent authority/Land Acquisition Collector and accordingly, sought

reference under Section 18 of the Land Acquisition Act, 1894 to assail the impugned award. Reference Court, vide judgment dated 09.10.2013, accepted the reference and held that the land owners are entitled for ₹4544/- per marla as compensation of land along with statutory benefits. The land owners, in pursuance to the aforementioned order passed by the Reference Court, filed execution application, for attaching the Head of Account 2053 of the Deputy Commissioner, Gurdaspur, in the Court of Additional District Judge, Pathankot, on 23.02.2015, and the petitioners moved application for releasing the account, aforesaid but the same has been rejected. Executing Court, vide order dated 28.08.2014, warrant of attachment has been issued for 09.12.2014, on filing of list of properties.

Mr.Piyush Bansal, learned Deputy Advocate General, Punjab, submits that in pursuance to the aforementioned order, the Land Acquisition Collector-cum-Sub Divisional Magistrate, Gurdaspur, wrote a letter dated 15.01.2015 (Annexure P-5) to the respondents-Commanding Officer, 69 Road Construction COY, (GREF) c/o 56 APO, for payment of ₹1,02,20,541/- and it was replied vide letter dated 27.01.2015, (Annexure P-6), whereby, it was communicated that award of the reference Court has been challenged in this Court by filing Regular First Appeals. However, the Land Acquisition Collector, vide letter dated 04.02.2015, Annexure P-7, again called upon respondent No.6, that in case, enhanced amount of compensation is not deposited, the Hon'ble Court shall

pass any order against the department. In pursuance to the execution proceedings, Head of Account 2053 of the Deputy Commissioner Gurdaspur (JD) has been attached. Petitioner No.2, in the execution proceedings, moved objection petition, Annexure P-8, for releasing Head 2053 of Deputy Commissioner, Gurdaspur, on the ground that the land was acquired by the Land Acquisition Collector-cum-Sub Divisional Magistrate, Gurdaspur, on behalf of respondent No.6 and they have given the amount of the acquired land. The Land Acquisition Collector has demanded the amount of ₹38,85,034/- from respondent No.6, but the same has not been deposited. Another application, Annexure P-9, to this effect was also filed, which has been dismissed by the trial Court, vide impugned order dated 08.07.2015.

Mr.Piyush Bansal, learned Deputy Advocate General, Punjab further submits that affected party, i.e, Commanding Officer has also filed a bunch of 14 Regular First Appeals, which have been taken in bunch of 10 and 4 each. In bunch of 10 appeals, this Court, vide order dated 29.07.2015, while disposing of the application seeking interim stay, passed the following order, which reads thus:-

“This order will dispose of an application for staying the disbursement of the enhanced compensation in context to land which is subject matter of acquisition under notification dated 19.04.2010 which was assessed at the rate of ₹775/- per marla.

Learned counsel for the appellant submits that the parameters adopted by the reference Court are prima facie not sustainable in law. It has been argued that for the purpose of comparison market value of land has been compared with the land which was situated on Pathankot-Amritsar road having greater potential than the land of the respondents, acquired for establishment of a road. The reference Court has held that the landowners are entitled to compensation at the rate of ₹4,544/- per marla. I have heard learned counsel for the appellant and gone through the facts and circumstances of the case.

The disbursement of the amount cannot be stayed, however, it can be ordered that the disbursement will be subject to the final decision of the appeal. The landowners will furnish an undertaking that in case of appeal being allowed, they will be liable to refund the amount.

No ground is made out for staying the disbursement of the amount. Application for interim relief is dismissed subject to the aforesaid conditions.

It is ordered that appeals will be heard within a period of two years.

A photocopy of this order be placed on the files of other connected cases.”

Whereas, in another cases, i.e., bunch of 04 Regular First Appeals, this Court had granted the stay by directing Commanding Officer to pay 25% of the awarding amount. In essence, balance was stayed. He further submits that once award passed by the reference Court has been assailed by the beneficiaries, it could be a futile exercise to attach the aforementioned account, i.e., of Deputy Commissioner, Gurdaspur.

I have heard learned State counsel for the petitioners and appraised the paper book.

Be that as it may, the fact remains that during the interregnum, the following orders were passed by the Executing Court vis-a-vis application filed by the Commanding Officer and the same orders read thus:-

27.08.2015.

"Pardip Kanti Roy, OC 69, RCC Gref has come present and made separate statement that as directed by the Hon'ble Punjab & Haryana High Court to deposit 75% of the awarded amount in four cases titled as Tilak Raj, Pritam Singh, Rajnish Kumar and Krishna Devi on the basis of directions of the Hon'ble Punjab & Haryana High Court, he has made the statement to deposit the said amount within 20 days. He has further stated that in the present 10 executions he will try his best to bring the stay order of the same pattern from the Hon'ble Punjab and

Haryana High Court for the purpose and requested for 2 months time for making the payment. The said contention has not been opposed by the GP for the respondents. Keeping in view the statement made by Sh. Pradip Kanti Roy, OC 69 RCC Gref, now the case is adjourned for 19.9.15. He is further directed to submit the report regarding the progress of the case or making the payment and further directed to submit the head account of 'The Commanding Officer 69, Road, Construction Coy (GREF) c/o 56 APO' on the next date of hearing."

19.09.2015

" Pardip Kanti Roy, OC 69, RCC Gref has come present and failed to submit head account of the Commanding Officer 69, Road Consts. Company (GREF) c/o 56 APO despite having specific directions to him for producing the same. No payment has been made as yet by the respondents to the applicants/DH. Let Commanding Officer/respondent No.2 is directed to come present in person for explaining the position regarding delay in depositing the amount before this Court. Learned counsel for the DH is also directed to furnish fresh list of property and warrant fee within seven days so that the warrant of attachment of the property of Jds/respondents be issued for 02.11.2015. Pardeep Kanti Roy has not stated

regarding the progress of the case nor submitted head account number of the commanding officer. Pardeep Kanti Roy who is representing respondent No.2 made the statement on the last date that he will try his best to bring the stay order on the same pattern from the Hon'ble Punjab and Haryana High Court. He has made a vague statement before this Court which is without any substance and sought time of this Court for depositing the amount. The commanding officer, respondent No.2 is directed to take stern action against Pardeep Kanti Roy for making a wrong statement in the Court and report regarding the action taken against him on the next date of hearing. He has also failed to submit the head account number of the commanding officer, respondent No.2 as specific directions were given by this Court. Now the case is adjourned for making the payment on or before the next date of hearing and if the payment is made in the present executions before the date fixed, then the presence of the commanding officer shall be exempted. The counsel for respondent No.2 is further directed to submit the head account number of the commanding officer on the next date of hearing.”

On perusal of the aforementioned orders, it reveals that it is Commanding Officer, who, to make deposit of the enhanced

amount of compensation in accounts of the landowners through Land Acquisition Collector, in respect of the land acquired and not the petitioners.

It is also a matter of record that order of Reference Court enhancing the amount of compensation has also been challenged in this Court. Once the trial Court entertained the application of the beneficiaries and directed the decree holders to furnish list of the property of respondent No.6, in essence, warrants of attachment of JD concerned, in my view, the trial Court ought not to have followed the procedure, i.e., by attaching the account of J.D.No.1-petitioner. It is settled law that it is beneficiary, which, has to make payment to the landowners. The main grievance of the petitioners to seek the relief was that owing to the judgment, Deputy Commissioner is not able to transact the business and make the payment to miscellaneous regarding administrative account, therefore, Deputy Commissioner, Gurdaspur is finding arduous most in honouring obligation.

Keeping in view the aforementioned observations, I am of the view that application filed on behalf of the petitioners, i.e., judgment debtor No.1 for releasing the account bearing No.2053 with District Treasury, Gurdaspur, was maintainable and justified as execution is already proceeding in attaching the property of respondent No.6. Particularly, respondent No.6 in compliance of the directions issued by this Court in bunch of 04 Regular First Appeals, has also deposited 25% of the amount, therefore, the impugned

order rejecting the application for not realizing the amount is not sustainable.

The impugned orders are hereby set aside and accordingly, the revision petitions are allowed.

It is made clear that Executing Court shall be at liberty to proceed further in attaching with the properties of respondent No.6 being affected has challenged the award of the reference Court as payment has to be deposited by respondent No.6/JD No.2 and not by JD No.1-petitioner.

(AMIT RAWAL)
JUDGE

October 19, 2015
savita