

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

**CM No.4824 of 2015
CWP No. 11070 of 2014 (O&M)
Date of decision: 12.5.2015**

Ashok Kumar and others

.....Petitioners

Vs.

Union of India and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Ashok Kaushik, Advocate for the petitioners.

Ms. Palika Monga, DAG, Haryana.

Mr. J.S.Hooda, Advocate for respondent Nos. 3 to 8.

Ajay Kumar Mittal,J.

1. Written statement on behalf of respondent No.2 filed today in Court is taken on record.

2. The petitioners seek quashing of the order dated 22.4.2014, Annexure P.3 passed by the Land Acquisition Collector, Palwal whereby their claim under section 20H(4) of the Railways Act, 1989 (in short, “the Act”) for referring the dispute to the civil court has been rejected.

3. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioners are owners in exclusive possession of the land bearing Rectangle No.19, Killa Nos.17/1, 17/2, 18 and 19 situated within the revenue estate of Village Medapur (Jatola) Tehsil and District Palwal. Some area out of above said Killa Nos. had been acquired vide notification dated 2.5.2013 for the railway department and award was passed on 27.3.2014, Annexure P.2. Before passing the award, the petitioners filed objections stating that the amount of compensation be given to them being in exclusive possession instead of to other co-sharers because oral partition had already taken place. According to the petitioners, the Land Acquisition Collector did not take any action and passed the award. The petitioners filed petition under Section 20H(4) of the Act for referring the dispute to the civil court regarding apportionment of the amount. The petitioners prayed that amount of compensation be not paid to any one till the decision by the civil court. The Land Acquisition Collector dismissed the petition vide order dated 22.4.2014, Annexure P.3. Hence the instant writ petition.

4. In the written statement filed on behalf of respondent No.2, it was inter alia stated that all the share holders were called for hearing their objections on 22.4.2014. On perusal of the whole records, no dispute of shares of parties was found and hence the objections did not fall under section 20H(4) of the Act.

5. Learned counsel for the petitioners submitted that once a petition under Section 20H(4) of the Act was filed stating that the dispute had arisen regarding apportionment of the amount of compensation, it was incumbent upon the respondents to have referred the dispute to the principal

civil court of original jurisdiction within the limits of whose jurisdiction the land was situated.

6. On the other hand, learned counsel for the respondents besides supporting the impugned order dated 22.4.2014, Annexure P.3 submitted that authorities had found that there was no dispute for apportionment and in such a situation, the reference petition under Section 20H(4) of the Act had been rightly declined.

7. It would be appropriate to reproduce Section 20H(4) of the Act which reads thus:-

“20H(4). If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.”

8. A plain reading of the above provision shows that where a dispute arises with regard to apportionment of amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal court of original jurisdiction within whose jurisdiction the land is situated. In the present case, the co-sharers having raised dispute with regard to apportionment of compensation amount by filing petition under Section 20H(4) of the Act, the same was required to be referred to the civil court within whose jurisdiction the land is situated for determination. It was not within the domain of the authorities to have adjudicated the issue. Thus, the impugned order Annexure P.3 is liable to be set aside. Consequently, the writ petition is allowed. The impugned order dated 22.4.2014,

Annexure P.3 is set aside. The competent authority is directed to

refer the dispute regarding apportionment of the compensation amount to the civil court within whose jurisdiction the land is situated within three months from the date of receipt of a certified copy of this order who will decide the same expeditiously preferably within six months from the date of receipt of such reference in accordance with law.

(Ajay Kumar Mittal)
Judge

May 12, 2015
'gs'

(Rekha Mittal)
Judge