

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

**CWP No.10494 of 2015
Date of decision: 25.5.2015**

Labh Singh

.....Petitioner

Vs.

The Punjab State and others

.....Respondents

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

Present: Ms. Sangita Dhanda, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Prayer in this petition under Articles 226/227 of the Constitution of India is for directing the respondents to disburse/deposit the enhanced amount of compensation after applying a multiplier of 16 in the account of the petitioner which had been enhanced by this Court alongwith all other statutory benefits to the other claimants vide order dated 12.1.2009, Annexure P.2.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner was a co-owner/co-villager in the land situated in the revenue estate of Village Sheron, Tehsil Taran Taran, District Amritsar. Land measuring 774 kanals 11 marlas was notified under Section 4 read with section 17 of the Land

Acquisition Act, 1894 (in short, “the Act”) on 28.3.1985 followed by notification dated 29.3.1985 under Section 6 of the Act for a public purpose, namely for setting up of Majha Cooperative Sugar Mills Limited, Sheron, Tehsil Tarn Taran, District Amritsar. Father of the petitioner Shri Mangal Singh was owner of 12 kanals of land situated in the revenue estate of Village Sheron, Tehsil Tarn Taran, District Amritsar. The petitioner being his legal heir became owner of the land after his death. Vide award dated 28.2.1986, the Land Acquisition Collector assessed the market value of the acquired land at the following rates:-

Chahi	₹ 10073 per acre
Barani	₹ 7960/- per acre
Banjar Jadid	₹ 7960/- per acre
Banjar Qadim	₹ 7960/- per acre
Gair Mumkin	₹ 7960/- per acre.

Aggrieved by the award, the land owners filed objections under section 18 of the Act which were referred to the civil court for adjudication. The reference court vide award dated 10.4.1995, Annexure P.1 reassessed the compensation by giving multiplier of 12 to the produce of two crops in a year and determined the compensation at the rate of ₹ 33,840/- per acre for *chahi* land and ₹ 22,000/- per acre for *barani* and *gair mumkin* land. Still not satisfied, both the State of Punjab and the land owners approached this court through their respective Regular First Appeals. Vide common judgment dated 12.1.2009, Annexure P.2, in RFA No.2009 of 1995 and other connected appeals, this Court granted multiplier of 16 to the annual yield of crop per acre in view of the decision of the Apex Court in ***The Executive Director vs. Sarat Chandra Bisoi and another***, AIR 2000 SC

2619 and allowed the appeals filed by the claimants and fixed the compensation at the rate of ₹ 45,120/- per acre alongwith all other statutory benefits under the provisions of the Amended Act and dismissed the appeals filed by the State. Though father of the petitioner was a party in the above said reference petition and was granted compensation but at the time of filing appeal in this court, he died and the petitioner due to his illness could not file appeal in this court. After a long delay when he met his lawyer he came to know that he could not file the appeal. He was under the impression that whatever be the decision in other appeals, he would also be able to get the same benefit. According to the petitioner, he could not file appeal in this Court due to wrong advice and inadvertent mistake. The appeals filed by the co-villagers were allowed by this court vide order dated 12.1.2009, Annexure P.2, as mentioned above. The petitioner approached the respondent authorities many time but since the petitioner was not party in the appeals filed in this court, he was denied the benefit by the respondents. Hence the instant writ petition.

3. We have heard learned counsel for the petitioner.

4. Claim of the petitioner in the writ petition is that the compensation which was awarded to the other claimants under the same acquisition should be granted to him as well alongwith statutory benefits. Support was drawn from judgment of the Apex Court in ***A.Viswanatha Pillai vs. Special Tehsildar for Land Acquisition No.IV and others***, Civil Appeal No.54 of 1975 dated 9.8.1991, Annexure P.3.

5. We do not find any substance in the submission made by the learned counsel for the petitioner. Against the award under Section 11 of the Act, the claimant-petitioner had remedy either to claim reference under

Section 18 of the Act or could have filed a petition under Section 28A of the Act after the decision of the reference of the other claimants by the reference court under Section 18 of the Act. The petitioner had thus not availed the remedy and the award became final. In such circumstances, the amount awarded by the Court to other co-villagers cannot be a ground for granting relief to the petitioner. In *A. Viswanatha Pillai's* case (supra), one of the co-owners had made reference while other co-owners did not. Therein, under the partition deed, the four brothers as coparceners kept in common the acquired property and each one was entitled to 1/4th share in the ancient Anicut and the irrigation system. It was held that the co-owners who did not make reference were also entitled to enhanced compensation pro rata as per their shares. Such is not the position here. Thus, we do not find any error in the action of the respondents in declining benefit of enhanced compensation to the petitioner. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 25, 2015
'gs'

(Rekha Mittal)
Judge