

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 7724 of 2014(O&M)

Date of Decision: 20.7.2015

Brij Mohan and others

---Petitioners

versus

State of Haryana and others

---Respondents

**Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr. Ashwani Gaur, Advocate
for the petitioners**

Ms. Palika Monga, Deputy Advocate General, Haryana

**Mr. Shailendra Jain, Senior Advocate
with Ms. Mannu Chaudhary, Advocate
for respondent Nos.11 to 17**

**Mr. Parminder Singh Kanwar, Advocate
for HUDA**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporter or not?**
- 3. Whether the judgment should be reported in the Digest?**

Rekha Mittal, J.

The petitioners have preferred the present writ petition under Articles 226/227 of the Constitution of India seeking issuance of direction to the official respondents No. 3 to 5 to pay compensation to the petitioners in accordance with decision in Reference Petition No. 1395 of 2000

rendered on 23.12.2009 (Annexure P-1) and the amount enhanced by this Court in RFA No. 4252 of 2008.

2. Counsel for the petitioners contends that land measuring 2 bigha 19 biswa puktha situated in village Wazirabad Tehsil and District Gurgaon was acquired and award in respect thereof was announced on 17.5.2000. The petitioners filed LAC case No. 1395 of 22.12.2000 claiming share in respect of the aforementioned acquired land being one of the successors-in-interest alongwith respondents No. 6 to 10 of Dholidhars. The said case was decided on 23.12.2009 and the petitioners were awarded $\frac{1}{3}^{\text{rd}}$ share in the compensation and the remaining $\frac{1}{3}^{\text{rd}}$ each was allowed in favour of respondents No. 6 and 7, 8 to 10 respectively. It is further argued that the official respondents in collusion with respondent No. 6 had released the entire payment to respondent No. 6 in November, 2009 as per compensation assessed by the Land Acquisition Collector. It is prayed that the official respondents may be directed to pay compensation to the petitioners to the extent they have been so held entitled by the Additional District Judge, Gurgaon.

3. Counsel for the contesting respondents would urge that Pyare Lal -respondent No. 6 sought reference under Section 30 of the Land Acquisition Act, 1894 (in short "the Act") which came to be disposed of by the Land Acquisition Tribunal/Additional District Judge, Gurgaon vide decision dated 23.12.2009(Annexure P-1). It is argued that even if the petitioners have been held entitled to apportionment of compensation in respect of the acquired land, the petitioners, at best, can file an application for execution of the judgment/decreed passed by the said Court.

4. We have heard counsel for the parties and perused the records.

5. Pyare Lal, respondent No. 6 sought reference under Section 30 of the Act which was eventually decided by the Additional District Judge, Gurgaon. Section 26 of the Act provides for form of awards and sub section 2 of Section 26 clearly lays down that every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2(2) and section 2(9), respectively, of the Code of Civil Procedure, 1908.

6. Part IV of the Act deals with apportionment of compensation and Section 30 thereof reads thus:-

“Dispute as to apportionment.- When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”

7. Counsel for the petitioners is not in a position to controvert the submissions made by counsel for the respondent that decision dated 23.12.2009 rendered by the Additional District Judge, Gurgaon in respect of apportionment of compensation awarded by the Land Acquisition Collector gives a right to the petitioners to file an application for execution of the award. In any case, if respondent No. 6 has illegally received entire compensation to exclusion of the petitioners, the petitioners, if so advised, may take recourse to appropriate proceedings for recovering the amount of compensation to the extent of their share in accordance with law. In this

view of the matter, we are of the considered opinion that the petitioners have invoked jurisdiction of this Court without correctly appreciating that the real remedy lies in filing an application for execution as envisaged in Rule 10 of Order 21 of the Code of Civil Procedure.

8. In view of what has been discussed hereinabove, the petition stands disposed of without prejudice to the rights of the petitioners to take recourse to appropriate remedy, in accordance with law, for redressal of their grievance(s). No order as to costs.

(Rekha Mittal)
Judge

(Ajay Kumar Mittal)
Judge

20.7.2015

PARAMJIT