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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. EFA No.19 of 2015 (O&M)
Date of Decision: 23.12.2015

THE BATALA IMPROVEMENT TRUST BATALAAppellant
Vs
KRISHAN KUMAR PURI TH LRS AND ORS ...Respondents

2. EFA No.20 of 2015 (O&M)

THE BATALA IMPROVEMENT TRUST BATALAAppellant
Vs
ASHOK PURI MAIN AND ORSRespondents

3. EFA No.21 of 2015 (O&M)

THE BATALA IMPROVEMENT TRUST BATALAAppellant
Vs
ASHOK PURI (STRUCTURE) AND ORS ...Respondents

4. EFA No.22 of 2015 (O&M)

THE BATALA IMPROVEMENT TRUST BATALAAppellant
Vs
KANWAL RAJ PURI AND ORS ...Respondents

5. EFA No.23 of 2015 (O&M)

THE BATALA IMPROVEMENT TRUST BATALAAppellant
Vs
DEV RAJ PURI DECEASED TH LRS AND ORS..Respondents

6. EFA No.24 of 2015 (O&M)

THE BATALA IMPROVEMENT TRUST BATALAAppellant
Vs
ASHA PURI AND ORSRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ashok Kumar Arora, Advocate
for the appellant.

1. *Whether Reporters of local papers 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?*

RAJ MOHAN SINGH, J.

[1]. Vide this common order six appeals i.e. EFA Nos.19, 20, 21, 22, 23 and 24 of 2015 are being decided as these appeals arise from common cause of action.

[2]. These appeals have been filed by the Batala Improvement Trust, Patiala against the order dated 24.09.2015 passed by Civil Judge (Sr. Divn.), Gurdaspur, whereby objections filed by the judgment-debtors/appellant-Trust in execution were dismissed. Facts are being taken from EFA No.19 of 2015.

[3]. In execution of the award under Land Acquisition Act, notice of the execution/application for the recovery of amount was issued to the appellant/Trust. Later on the said execution was transferred to the Court of Civil Judge (Sr. Divn.), Gurdaspur in view of Section 65(2) of the Punjab Town Improvement Act, 1922. Appellant-Trust filed their objections in the aforesaid execution showing the statement of interest calculated on the payment for the land acquired by the appellant/Trust.

[4]. In sum and substance the objection raised by the judgment-debtor/Trust is that the judgment-debtor could not collect the details of the amount realised or paid by it to the decree-holders from time to time in the execution filed in the

past. Since the amount has been enhanced by the Courts in hierarchy, therefore, exact details are to be brought on record by the decree-holders. Judgment-debtor/Trust showed its difficulty to calculate the exact amount payable to the decree-holders on account of enhanced payment awarded by the Courts.

[5]. Prayer was made for issuance of directions to the decree-holders to furnish the exact details of amounts received by them from the judgment-debtors.

[6]. Learned counsel for the appellant has contended that the decree-holders have realised huge amounts along with interest and, therefore, it is very difficult for the appellant to calculate the necessary details of payments given to the decree-holders from time to time. Besides the aforesaid claim, the compound interest is not payable to the decree-holders.

[7]. The claim of the objector has been resisted by the decree-holders on the ground that similar application was dismissed on 28.08.2010 and that order has become final as no appeal was filed against the said order. Even the judgment-debtors filed appeals against the order dated 17.10.2002 and 02.03.2006 passed by the Land Acquisition Tribunal. Those appeals were dismissed by this Court.

[8]. Apparently land acquisition proceedings were initiated

in the year 1974 and since then more than 41 years have elapsed, most of the original land owners have expired but the judgment-debtors have been filing applications and objections repeatedly just to delay the proceedings for one reason or the other.

[9]. The decree-holders have already submitted their details of payments received by them from time to time. The objections of such like nature filed by the judgment-debtors have already been dismissed on 28.08.2010 and said order having become final creates estoppel against judgment-debtors to rake up the issue again.

[10]. Vide order dated 17.10.2002, the Land Acquisition Tribunal, Gurdaspur disposed of number of applications for amendment or correction in the award. The applicants were held entitled to interest @ 9% per annum from the date of taking possession over the land acquired or the award whichever is earlier for the first year and for period subsequent thereto till realisation @ 15% per annum.

[11]. Learned counsel for the appellant/Trust refers that the parties were directed to submit fresh calculation chart of compensation in the light of aforesaid order.

[12]. Order dated 02.08.2003, further reveals that rate of interest was adjudicated as per order dated 17.10.2002, interest

is payable on the solatium and the claimants are entitled to 30% solatium on account of compulsory acquisition on the enhanced compensation. For the first year interest is to be calculated @ 9% per annum from the date of taking of possession and for subsequent years it is @ 15% per annum till realisation of the amount. In this way everything has been adjudicated and it is only the judgment-debtor who has to make good the payment.

[13]. Under the garb of furnishing calculations, judgment-debtors cannot stall the proceedings, even otherwise judgment-debtor being the Improvement-Trust is expected to maintain the record of credit and debit payments in official record.

[14]. Keeping in view the pendency of acquisition proceedings for the last more than 41 years, it is not expected from the land owners that they would maintain the record of each and every payment paid to number of co-sharers and after their death to number of legal heirs. If at this juncture, decree-holders are compelled to file calculations, it may prove to be of serious consequences and also keeping in view the number of deaths having taken place in the span of 41 years, number of persons would have come into fray in the capacity of legal heirs as well as vendees under the original owners, therefore, the collection of information from such a lot would rather be an impossible task for the claimants.

[15]. In considered opinion of this Court, the filing of application for seeking direction to the decree-holders to furnish details of payment seems to be a calculated move to delay the proceedings which have already been delayed substantially. It is easy for the judgment-debtor to cull out the entries from their own record maintained by the Trust. The amount already paid under two different executions can be set off and the amount so enhanced by the Courts below can be paid by the judgment-debtor with reference to necessary calculations and relief clause in view of judgments rendered by the Courts.

[16]. I am of the considered opinion that decree-holders cannot be compelled to furnish calculations at this juncture, particularly when the acquisition started about 41 years ago and different awards have been passed. Number of executions have been filed and payments have been made therein.

[17]. At this juncture, where enhanced payments of compensation are to be made, issuance of direction to the decree-holders would be totally unjustified particularly when the necessary calculations can be furnished by the judgment-debtor from the record maintained by the Trust in due course of business. Moreover the similar prayer has already been declined by the Land Acquisition Tribunal vide order dated 28.08.2010. The said order having attained finality debars the

judgment-debtor to rake up the issue once again in the form of filing present petition in execution.

[18]. Looking to the facts and circumstances of the case, no interference is called for in these First Appeals in Execution, consequently these appeals are hereby dismissed.

December 23, 2015
Atik

(RAJ MOHAN SINGH)
JUDGE