

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

**RSA No.3382 of 2014 (O&M)
Date of decision:20.11.2015**

Sarbjit Singh and others

... Appellants

Vs.

Union of India 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. V.K.Sandhir, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

Learned counsel appearing on behalf of the appellant-plaintiffs submits that suit for possession by giving up un-authorized occupation and vacation of illegal possession of the defendants by removing all the construction and super structure on the suit property described in the plaint with consequential relief had been dismissed by both the Courts below on the ground that respondents-State has acquired the land without making any compensation.

He further submits that the land was acquired under the provisions of Defence of India Act, 1962 (hereinafter referred to as '1962 Act'). Both the Courts below dismissed the suit and appeal on

the premise that appellant-plaintiffs have failed to assert the date of alleged dis-possession, much less, compensation so determined, under the 1962 Act, had already been deposited by the Tehsildar and remedy if any, is to claim compensation and not to pursue the suit.

I have heard learned counsel for the appellant-plaintiff and appraised the impugned judgments and decrees of the Courts below.

I am of the view that findings rendered by both the Courts below is in consonance with the provisions of Section 37 of 1962 Act, which provide that in case compensation assessed by the department is not acceptable by the land owners and the land owners can move an application to the Government for appointment of Arbitrator. But the appellant-plaintiffs had made no efforts before filing of the suit to ascertain the aforementioned situation that acquisition vis-a-vis deposit of the compensation and in case, it was found that the compensation assessed was not in accordance with the provisions of 1962 Act or market value, could have availed remedy by approaching the competent Court of law in seeking appointment of the Arbitrator. Having not done so, in my view, the suit for possession, ex facie, was not maintainable.

I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the Court.

It is open for the appellant-plaintiffs to seek vindication of their grievances, if any, in the competent Court of law.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 20, 2015
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