

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1971 of 2004(O&M)
Date of decision : May 5, 2016

Tota Ram and others

Versus
State of Haryana and others

..... Petitioners

..... Respondents

CR No. 1972 of 2004(O&M)

Anant Ram

Versus
State of Haryana and others

..... Petitioners

..... Respondents

CR No. 1973 of 2004 (O&M)

Ujagar Singh

Versus
State of Haryana and others

..... Petitioners

..... Respondents

CR No. 1974 of 2004(O&M)

Ram Phal

Versus
State of Haryana and others

..... Petitioners

..... Respondents

CR No. 1975 of 2004(O&M)

Smt. Chanderwarti and others

Versus
State of Haryana and others

..... Petitioners

..... Respondents

CR No. 1976 of 2004(O&M)

Yashwant Singh

Versus
State of Haryana and others

..... Petitioners

..... Respondents

CR No. 1977 of 2004(O&M)

Bhim Sen

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CR No. 1978 of 2004(O&M)

Bahadur Singh and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajiv Kataria, Advocate
for the petitioners.

Mr. D. K. Mittal, DAG., Haryana.
for the respondents.

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?

Amit Rawal, J (oral).

The petitioners are lessors and the respondents are lessees. It is a matter of record that the land under lease was acquired under the erstwhile Land Acquisition Act, 1894(hereinafter called as 'the Act'). The question arose that whether the lessees are entitled to the entire compensation or 75% of the amount.

Learned counsel for the petitioners submits that petitioners were proceeded against ex-parte vide order dated 24.2.1999 in proceedings initiated under Section 30 of the Act for the purpose of same, no service was actually effected. The reference

Court by relying upon the judgment dated 20.1.1994, delivered by Hon'ble Supreme Court in Civil Appeal No. 560 of 1983 titled as Prem Sagar (dead) by L.Rs etc.Vs. State of Haryana and others wherein it was held that lessees are entitled to entire amount of compensation. An application for setting aside the impugned order was filed which was also dismissed. Accordingly both the orders dated 28.7.1999 (Annexure P-5) and 15.3.2003 (Annexure P-7) have been challenged. In support of his contentions, learned counsel has relied upon the judgments rendered by various Courts and this Court praying that appropriate directions be issued to the Reference Court to determine, afresh, apportionment of compensation as the lessee and lessor are entitled to $\frac{2}{3}$ rd and $\frac{1}{3}$ rd amount of compensation respectively. In case, an opportunity is granted to contest the petition under Section 30 of the Act, his client would be able to apprise the Court about the position of law failing which a valuable right has been taken away, which can be compensated in terms of costs.

Many of the respondents-lessees have been served but there is no representation on their behalf.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is some force in the contention of Mr. Rajiv Kataria, learned counsel for the petitioners as the Reference Court in its order dated 28.7.1999 (Annexure P-5) in one paragraph adjudicated the claim without appreciating the fact that lessors are also entitled to some amount of compensation.

Be that as it may, the fact remains that the petitioners-lessors have been prevented to put forth their

defence/case resulting into manifest injustice their claim cannot be thrown in the manner adopted and noticed vide impugned order.

In view of the aforementioned facts, both the orders dated 28.7.1999 (Annexure P-5) and 15.3.2003 (Annexure P-7) are set aside. The petitioners are granted opportunity to address arguments, much less lead evidence and the Reference Court will grant three effective opportunities to each party to lead evidence and thereafter shall decide the petition under Section 30 of the Act, in accordance with law.

Parties through their counsel are directed to appear before the Reference Court on 30.5.2016. The Reference Court is directed to avail presence of other parties in accordance with law.

The Civil revisions stand disposed of.

In view of disposal of the revision petition C.M.No.9433-CII of 2016 in C.R.No. 1976 of 2004 is dismissed as withdrawn.

(AMIT RAWAL)
JUDGE

May 5, 2016
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