

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

**Civil Revision No.1807 of 2014
Date of Decision: 29.08.2016**

Bhateri and others

.....Petitioners

Vs

State of Haryana and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Anurag Jain, Advocate
for the petitioners.

Mr. A.S. Yadav, A.A.G., Haryana.

RAJ MOHAN SINGH, J

[1]. In this revision petition, petitioners have challenged order dated 11.12.2013 (Annexure P-4) passed by the Additional District Judge, Hisar whereby execution petition filed by them was disposed of as non-executable.

[2]. Brief facts as gathered from the record are that the land of the decree-holders was acquired by the State of Haryana vide notification dated 18.06.1984 under Section 4 of the Land Acquisition Act (for short 'the Act') and notification dated 25.06.1984 under Section 6 of the Act. Award was passed by the Collector on 15.01.1986. Reference Court decided the

reference under Section 18 of the Act vide judgment dated 28.02.1989 and assessed the market value of the land falling in Block 'A' @ Rs.1 lac per acre and for the land falling in Block 'B' @ Rs.50,000/- per acre. Against the judgment of the reference Court, the land owners filed RFA No.1436 of 1989 before this Court. The amount of compensation was enhanced to uniform rate of Rs.1,50,000/- per acre after abolition of categorisation of land into two blocks as done by the reference Court. The appeal of the claimants was allowed in a bunch matter along with all consequential benefits of amended provisions of the Act in terms of Sections 23(1-A), 23(2) and 28 of the Act. Main judgment was passed in RFA No.1155 of 1989 titled as Chander Parkash vs. State of Haryana and others. The said bunch of cases was inclusive of the appeal preferred by the claimants/land owners as well as appeals by the State of Haryana against the award of the reference Court dated 28.02.1989.

[3]. Against the order dated 10.12.1990 passed by the Single Bench of this Court in RFA No.1439 of 1989 on the basis of decision dated 29.11.1990 in RFA No.1155 of 1989, Letters Patent Appeal Nos.211 and 224 of 1991 were filed by the claimants as well as State of Haryana. The judgment of the learned Single Judge of this Court in the bunch of RFAs was

upheld in the Letters Patent Appeal Nos.211 and 224 of 1991 and the same were dismissed vide judgment dated 05.01.1994. The judgment dated 05.01.1994 was never assailed by the State of Haryana or by the claimants thereafter and the same attained finality.

[4]. In the meanwhile, few cases in the remaining bunch of cases went in SLP against the order passed in LPA No.664 of 1991. The Hon'ble Apex Court decided the issue in **Union of India vs. Mangtu Ram, AIR 1997 SC 2704**. The award passed by the reference Court was set aside and matter was remanded to Additional District Judge, Hisar for fresh adjudication in accordance with law laid down by the Hon'ble Apex Court in **Mangtu Ram's** case (supra).

[5]. RFA No.2384 of 1989 filed by the State of Haryana against the claimants in RFA No.1436 of 1989 remained undecided and did not form part of earlier bunch of matters. RFA No.2384 of 1989 came up for decision before this Court on 31.10.2002 and by the time decision in **Mangtu Ram's** case (supra) had come. Left out case i.e. RFA No.2508 of 1991 was decided in view of decision rendered in **Mangtu Ram's** case (supra). Accordingly RFA No.2384 of 1989 i.e. cross-appeal by the State of Haryana to RFA No.1436 of 1989 was also decided

by this Court in terms of the **Mangtu Ram's** case (supra) vide order dated 31.10.2002.

[6]. In nutshell the controversy appears to be anomalous inasmuch as that RFA No.1436 of 1989 of the claimants against the judgment of the reference Court dated 28.02.1989 was decided on the basis of decision in bunch matter rendered in RFA No.1155 of 1989. LPA No.224 of 1991 filed by the claimants was also decided and judgment of the Single Bench of this Court was upheld. LPAs were also filed by the State of Haryana in some of the cases, which were also disposed of by the LPA Bench of this Court on 05.01.1994. Somehow RFA No.2384 of 1989 filed by the State of Haryana against the present claimants of RFA No.1436 of 1989 remained undecided and that was ordered to be decided by the Single Bench of this Court vide order dated 31.10.2002 in terms of decision rendered by the Hon'ble Apex Court in **Mangtu Ram's** case (supra). Resultantly after setting aside the decision of reference Court dated 28.02.1989, the matter was referred back to the reference Court. On the one hand, RFA No.1436 of 1989 indicated enhancement of amount to the tune of Rs.1,50,000/- per acre against the decision of reference Court dated 28.02.1989. The said decision was upheld in appeal at the instance of the claimants, but not at the instance of the State of Haryana, who

separately filed RFA No.2384 of 1989 which was ultimately decided on 31.10.2002 on the basis of decision rendered in **Mangtu Ram's** case (supra).

[7]. No doubt, there is no material on record to show that judgment dated 05.01.1994 rendered in LPA No.224 of 1991 *inter se* between the parties was ever set aside or varied by the Hon'ble Apex Court which was also in respect of the same land under the same acquisition and award. CM No.5244-C of 2003 for recalling of order dated 31.10.2002 passed in RFA No.2384 of 1989 was moved, but the same was dismissed in default vide order dated 02.12.2005. Since the remand has been ordered in RFA No.2384 of 1989 based on the judgment of the Hon'ble Apex Court in **Mangtu Ram's** case (supra), the question of maintainability of execution pursuant to decision rendered in RFA No.1436 of 1989 and LPA No.224 of 1991 decided on 05.1.1994 came to be interpreted before the executing Court. The subject matter of acquisition arising out of order dated 28.02.1989 passed by the reference Court stood set aside by the Hon'ble Apex Court in the aforecited case.

[8]. RFA No.1436 of 1989 and RFA No.2384 of 1989 were filed by the claimants and State of Haryana respectively against the order of reference Court dated 28.02.1989. Decision of RFA

No.1436 of 1989 dated 10.12.1990 based on decision in bunch cases rendered in RFA No.1155 of 1989 dated 29.11.1990 stood merged in decision of LPA No.224 of 1991 and LPA No.211 of 1991 dated 05.01.1994. On the other hand RFA No.2384 of 1989 remained undecided and by virtue of time, it came to be covered by the decision of the Hon'ble Apex Court in **Mangtu Ram's** case (supra). Order dated 31.10.2002 and the reference Court order dated 28.02.1989 were set aside and the matter was remanded back to the Additional District Judge, Hisar for fresh adjudication in accordance with law laid down by the Hon'ble Apex Court in the aforesaid case. The application for recalling of order dated 31.10.2002 i.e. CM No.5244-C of 2003 was dismissed in default on 02.12.2005 and the remand order dated 31.10.2002 attained finality in State appeal in respect of land involved in the present case.

[9]. In view of aforesaid, since the basic order dated 28.02.1989 has been set aside by the Hon'ble Apex Court and the case was remanded back to the reference Court. In one set of litigation, the order of the reference Court was modified by the Single Bench of this Court by way of enhancing the compensation and the same had attained finality with the dismissal of the LPA in that bunch of cases. On the other hand, State appeal i.e. RFA No.2384 of 1989 which was a cross-

appeal to RFA No.1436 of 1989 was disposed of vide order dated 31.10.2002 on the basis of **Mangtu Ram's** case (supra). Even the application for recalling of order dated 31.10.2002 was dismissed in default on 02.12.2005.

[10]. In view of aforesaid, it has to be taken that the basic order dated 28.12.1989 of the reference Court has already been set aside by the Hon'ble Apex Court, therefore, the foundation for executing the award is not in existence. The aforesaid anomalous situation can only be decided by observing that in view of remand order passed by the Hon'ble Apex Court in **Mangtu Ram's** case (supra), the order of the reference Court dated 28.02.1989 already stood set aside and, therefore, no execution can be carried out. The decisions rendered in RFA No.1436 of 1989 and LPA No.224 of 1991 were based upon the reference order dated 28.02.1989 which already stood set aside by the Hon'ble Apex Court. Even otherwise, in State appeal i.e. RFA No.2384 of 1989, the controversy with regard to same land at the instance of the State of Haryana stands remanded to the reference Court. Therefore, no order of reference can be presumed at this stage.

[11]. In any case, the reference Court will re-determine the compensation in view of decision of the Hon'ble Apex Court.

The such re-determination by the reference Court is a contingent factor as on date. In the event of re-determination by the reference Court, both the parties would have legal remedies against such determination and, therefore, allowing for execution based on earlier determination dated 28.02.1989 and modification thereof in RFA No.1436 of 1989 and LPA No.224 of 1991 would be an exercise in futility. There cannot be two contradictory or parallel determination in respect of same land.

[12]. In view of aforesaid facts, in considered opinion of this Court, the Additional District Judge, Hisar in the impugned order dated 11.12.2013 has not committed any jurisdictional error. Consequently, this revision petition is found to be devoid of merits and the same is accordingly dismissed.

August 29, 2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No