

CR No.3976 of 2016 (O&M)

{1}

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

CR No.3976 of 2016 (O&M)

Date of decision:18.10.2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioners

Vs.

Padam Singh and others ... Respondents

CR No.3977 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Hari Chand (since deceased) through LRs and others ... Respondents

CR No.3978 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Richhpal and another ... Respondents

CR No.3979 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Kishan Singh and others ... Respondents

CR No.3976 of 2016 (O&M)

{2}

CR No.3980 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Sardar Singh (since deceased) through LRs and others ... Respondents

CR No.3981 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Daya Chand and others ... Respondents

CR No.3982 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Sarjeet and another ... Respondents

CR No.3983 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Bijender Singh and others ... Respondents

CR No.3984 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Smt. Kela Devi and another ... Respondents

CR No.3976 of 2016 (O&M) {3}

CR No.3985 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Bishan Singh (since deceased) through LRs and another ... Respondents

CR No.3986 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Sri Chand and another ... Respondents

CR No.3987 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Mekh Chand and another ... Respondents

CR No.3988 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Shish Ram and another ... Respondents

CR No.3989 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Satbir and others ... Respondents

CR No.3976 of 2016 (O&M)

{4}

CR No.3990 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Satbir and others ... Respondents

CR No.3991 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Chander Bhan and others ... Respondents

CR No.3992 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Rajender and others ... Respondents

CR No.3993 of 2016

National Thermal Power Corporation Limited (NTPC),
Faridabad ... Petitioner

Vs.

Tara Chand and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ajay Jain, Advocate
for the petitioner.

Mr. Rajeev Sharma, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

This order of mine shall dispose of 18 revision petitions bearing Nos.3976 to 3993 of 2016 arising out of the impugned orders, whereby, owing to the directions given by this Court vide order dated 11.02.2016 passed in CR No.3777 of 2013 to pass an order after receipt of the fresh calculations, the calculations furnished by the petitioners have been held to be incorrect and warrant of attachment against the properties of the judgment debtors have been issued by the Executing Court.

Mr. Ajay Jain, learned counsel appearing on behalf of the petitioners has raised the following multi-fold arguments:-

- i) The calculations submitted by the decree-holder are not in consonance with the ratio decidendi culled out by the Hon'ble Supreme Court in **Gurpeet Singh vs. Union of India 2008(2) RCR (Civil) 207** and as well as in **Civil Appeal No.9763 of 20111 titled as Leela Hotels Limited vs. Housing and Urban Development Corporation Limited, decided on 15.11.2011.**
- ii) The landowners cannot be allowed to apportion the amount of compensation initially towards interest then towards principal, in essence, they cannot claim interest on the principal amount as it is undue benefit.
- iii) In fact, the entire payment had already been made which is reflected in the Form-D and therefore, nothing is due towards

decree holder.

He, thus, submits that the order under challenge suffers from illegality and perversity and therefore, is liable to be set aside.

Per contra, Mr. Rajeev Sharma, learned counsel appearing on behalf of the respondents submits that against the order dated 24.09.2010 passed by the Executing Court, few of the landowners had approached this Court vide aforementioned revision petition, whereby, the matter was remanded back to the Court below by setting aside the order impugned therein. The said order has not been challenged by the petitioners in any of the forums. The calculations submitted before the Executing Court were not disputed by the petitioners as noticed above. If the Form-D was part and parcel of the record of the Court below, the same would have been reflected in the impugned orders. The reference of the so-called Form has been made for the first time in the present revision petition. Had it been so, the Executing Court would have an opportunity to ponder upon the same and thus, urges this Court for dismissal of the revision petitions. He further submits that the decree holder has not apportioned the amount against the interest, in view of the law laid down by the Hon'ble Supreme Court in Gurpreet Singh's case (supra), wherein it has been held that the landowners cannot claim interest on the principal amount. The calculations noticed by the Executing Court are not in consonance with the aforementioned findings/observations given by the Hon'ble Supreme Court in Gurpreet Singh' case (supra).

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Ajay Jain, for, Form-D has not been reflected in the impugned orders, zimni orders or in any proceedings of the Court below or any application enclosing the copy of the Form-D has been indicated in the grounds of revision petition being part of the record of the Executing Court has been averred.

I would be committing a fallacy in case I do not extract the relevant portion of the impugned order which reads thus:-

“The payments made by LAC to the decree holders at the time of acquisition of land and subsequent payments made to decree holders by JDs from time to time have been reflected correctly in the aforesaid calculation and learned counsel for the JDs have not disputed the correctness of the payments made by JDs as shown in the calculation.

Stand of JD is that the payments made by them from time to time have to be apportioned first of all towards principal, thereafter towards interest and cost but decree holders have apportioned the payments first of all towards interest and cost and thereafter, towards principal which is the reason for variation in the statements furnished by both the parties. However, the version of JDs is not correct and their calculation is also incorrect. JDs have placed on file copies of

Form-D reflecting the payments made to decree holders and in all these payments, tax at source (TDS) has been deducted. It is a matter of common knowledge that tax is deducted only on the interest component of the compensation and if TDS has been deducted, it does not lie in the mouth of JDs to allege that these payments should be appropriated first of all towards principal. Moreover, in none of the Form-D, JDs have expressed their intention to appropriate the payments first of all towards principal which they were required to exercise. Merely because the decree holders accepted the payments will not in any manner be construed as their consent or waiver to appropriate the payments first of all towards principal.”

In view of the aforementioned observations, I am of the view that the revision petitions against the impugned orders are not maintainable as remedy lied elsewhere. The calculations stated to have been submitted by the decree holder was not disputed and therefore, rightly so the Executing Court proceeded further with the executing proceedings. Prima facie, in my view, the petitioners have not been able to point out that the payment made has been in consonance with the ratio decidendi culled out by the Hon'ble Supreme Court in Gurpreet Singh' case (supra) and not apportioned by the landowners in the manner and mode indicated by the Hon'ble Supreme Court in Gurpreet Singh's case (supra).

During the course of arguments, Mr. Rajeev Sharma, passed on

a copy of the order dated 11.02.2016 passed in CR No.3777 of 2013 which has not been assailed.

For the reasons aforementioned , I do not find any illegality and perversity in the impugned orders. No ground is made out for interference in the impugned orders.

Accordingly, the revision petitions stand dismissed.

(AMIT RAWAL)
JUDGE

October 18, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No