

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

CR No.4779 of 2014(O&M)

Date of decision:21.7.2016

Satnam Singh and others

....Petitioners

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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. Swaran Singh, Senior Advocate with
Mr. N.S. Rapri, Advocate for the petitioners.

Mr. Baljinder Singh Sra, Additional A.G. Punjab for
respondent No.1.

Mr. Sumit Jain, Advocate for respondents No.2 and 3.

None for respondents No.4 and 5.

REKHA MITTAL, J.

The present petition lays challenge to order dated 29.01.2014 (Annexure P-4) passed by the Civil Judge (Senior Division), Ludhiana whereby claim of the petitioners for allowing benefits as per award dated 22.05.1985 (Annexure P-1) modified vide order dated 06.08.1986 (Annexure P-3) has been dismissed.

Counsel for the petitioners would contend that Land Acquisition Case (in short 'LAC') No.244 of 29.11.1978 titled Smt. Vidwan Kaur and others Vs. Punjab State and others was decided by the Land Acquisition Tribunal, Ludhiana Improvement Trust, Ludhiana, on the

basis of findings recorded in LAC No.245 of 1978 titled Har Lal Vs. Improvement Trust, Ludhiana and others, whereby market value of the acquired land immediately abutting the link road and upto depth of 10 Karams was assessed at Rs.235/- per square yard and of the remaining land at the rate of Rs.155/- per square yard with interest at the rate of 6% per annum on enhanced compensation besides 15% solatium. Har Lal, the award holder in LAC No.245 of 1978 filed an application for review of the award that was allowed by the Land Acquisition Tribunal vide order dated 06.08.1986 (Annexure P-3) and the award dated 22.05.1985 (Annexure P-1) was modified holding the petitioner therein entitled to 30% solatium over the entire compensation besides an amount equal to 12% per annum on the compensation from the date of publication of notice under Section 36 of the Punjab Town Improvement Act 1922, i.e. 08.07.1975 till the date of delivery of possession i.e. 11.08.1978. The petitioner was further held entitled to 9% per annum interest on the enhanced compensation as well as solatium in view of findings of the High Court in State of Haryana Vs. Smt. Kailash Wati and others, 1980 PLR 122, for the first year from the date of dispossession and 15% per annum for the remaining period till the date of payment.

It is argued with vehemence that as the award in favour of the petitioners while disposing of LAC No.244 of 29.11.1979 was passed on the basis of findings of the Tribunal recorded in LAC No.245 of 1978, the petitioners are also entitled to the same benefit as has been awarded in the case of Har Lal by allowing review petition vide order dated 06.08.1986 (Annexure P-3). According to counsel, the executing Court has committed a serious error rather illegality in denying the said benefit to the petitioners.

Counsel(s) for the contesting respondents have supported the impugned order with the submissions that as the petitioners never expressed their grievance against award dated 22.05.1985 (Annexure P-1) that has attained finality between the parties, they cannot derive any advantage from the modification made only in the case of Har Lal.

I have heard counsel for the parties, perused the records particularly the annexures appended with the petition.

The executing Court in para 5 of the impugned order has held that the executing Court cannot go beyond the decree and only award to be executed is the award dated 22.05.1985 passed in LAC No.244 of 29.11.1978. It has further been held that the decree holders are not a party to modification of award passed in LAC No.245 of 1978 vide order dated 06.08.1986, therefore, the modification dated 06.08.1986 in LAC No.245 of 1978 cannot enure to benefit of the petitioners.

Counsel for the petitioners has failed to invite attention of this Court to any provision in the Land Acquisition Act, 1894 or a precedent which entitles the petitioners to claim benefit of order dated 06.08.1986 passed in LAC No.245 of 1978. The mere fact that LAC No.244 of 29.11.1978 was decided on the basis of findings recorded in LAC No.245 of 1978 would not *ipso facto* amount to review of award passed in LAC No.244 of 29.11.1978 whereby the petitioners were awarded compensation in reference under Section 18 of the Land Acquisition Act, 1894. Even it is not plea of the petitioners that they were co-sharers of Har Lal in order to claim that benefit of order dated 06.08.1986 (Annexure P-3) is liable to be extended to them without their having filed an application for review.

In view of the above, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed.

JULY 21, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE