

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

**CR No.5854 of 2014
Date of Decision- 21.09.2016**

Tokeshwar and others ... Petitioners

Versus

State of Haryana and others ... Respondents

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

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

Mr. Rohit Arya, A.A.G, Haryana.

RAJ MOHAN SINGH, J.

[1]. Petitioners have assailed order dated 22.03.2011 passed by executing Court vide which execution petition was dismissed.

[2]. Petitioners alleged that the execution petition filed by them was dismissed illegally, without framing of issues and without permitting the parties to lead evidence. The land was acquired by the State of Haryana for utilization and development of Sector 30 Faridabad vide notification dated 04.11.1977 issued under Section 4 of the Land Acquisition Act. Accordingly, award was passed on 28.08.1981 and compensation was assessed @ Rs.40,000/- per acre.

[3]. Petitioners were not satisfied with the award and a reference under Section 18 of the Land Acquisition Act came to be filed at their instance. The amount of compensation was re-

assessed by the reference Court @ Rs.18/- per sq. yard vide award dated 14.12.1984. This Court in further appeal, enhanced the same to the tune of Rs.22/- per sq yard. Civil Appeal filed before the Hon'ble Apex Court was dismissed on 17.08.1994.

[4]. Execution petition was filed for recovery of the amount of compensation awarded by the Collector as well as enhanced amount in view of order passed under Section 18 of the Act by the reference Court and in further appeal by this Court. One of the execution petition was dismissed as withdrawn on 27.10.1998.

[5]. Petitioners alleged that the respondent-State did not deposit the amount along with statutory benefits and therefore, execution was filed on 01.04.2010 for recovery of amount in question. Petitioners also filed an application under Order 21 Rule 37 CPC for arrest and detention of the judgment debtor on 15.01.2011.

[6]. Apparently, appeal against the judgment of the reference Court was dismissed on 17.08.1994 i.e. more than 12 years prior to filing of execution on 01.04.2010. The period of limitation cannot be calculated from the date of withdrawal of earlier execution, rather limitation has to start from the date of final order passed in the case. Evidently, the final order was passed on 17.08.1994. The date of filing of execution on 01.04.2010 was patently beyond period of limitation as the same was filed beyond the period of 12 years from final order dated 17.08.1994. Earlier

execution petition was dismissed as withdrawn on 27.10.1998. The second execution petition was filed by the claimants on 01.04.2010. The second execution petition could have been filed within a period of 12 years from the final order dated 17.08.1994.

[7]. In view of amended provision of Limitation Act, there cannot be any error of jurisdiction passed by the executing Court in passing impugned order dated 22.03.2011. Accordingly, this revision petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

21.09.2016
Prince

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No