

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

CR No.6826 of 2014

Date of decision : 14.03.2016

Indian Oil Corporation Ltd.

...Petitioner

Versus

Prem Singh and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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. Ashish Kapoor, Advocate for the petitioner.

Mr. Sanjay Garg, Advocate and
Mr. Suresh K. Jindal, Advocate for respondent Nos.1 to 22.

AMIT RAWAL, J. (Oral)

CM No.5421-CII of 2016

Prayer in the application is for placing on record Annexures P-5 and P-6.

For the reasons stated in the application, application is allowed.

Annexures P-5 and P-6 are taken on record, subject to all just exceptions.

Main case

The petitioner-Indian Oil Corporation is aggrieved of the

impugned order, whereby the executing court entertained application of the co-sharer vis-a-vis the claim and enhanced amount of compensation on the basis of award dated 30.08.2011.

Mr. Ashish Kapoor, learned counsel appearing on behalf of petitioner-Judgment Debtor submits that award in respect of land measuring 29 kanals 11 marlas was passed on 05.01.1996. Few of co-sharer sought reference under Section 18 of the Land Acquisition Act which was decided on 20.05.2004. An Regular First Appeal against the same was filed. However, the respondent instituted petition under Section 28-A on 23.08.2005 which was barred by law of limitation. Revision petition was filed in this Court. Liberty was granted to move an application under Section 28-A(3) and after filing the same was withdrawn. In the meantime, previous award was set aside as per the remand order dated 26.07.2010 and the fresh award came to be passed on 30.08.2011 (Annexure P-6). The respondent without seeking reference or invoking provision of Section 28-A sought execution of the award dated 30.08.2011 which is not permissible in law.

Mr. Sanjay Garg, Advocate and Mr. Suresh K. Jindal, learned counsel appearing on behalf of respondent Nos.1 to 22 submits that previous reference was sought on behalf of co-sharer in respect of the entire land. Be that as it may but the fact remains that execution application filed in pursuance to the award dated 30.08.2011 passed by the Reference Court. Execution application at the best can be treated petition under Section 28-A of the Act as it was filed on 27.09.2011 well within the period of limitation, therefore, there is no illegality and perversity in the order under challenge.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the present revision petition in view of the fact as noticed above as there is force in the submission of Mr. Jindal as the execution application at the best can be treated as petition under Section 28-A, for, role of the executing Court is just to implement the award dated 30.08.2011 which has been passed in respect of the entire land not at the behest of the previous co-sharer. Concededly, the respondents are few of the co-sharers but owing to such technical hitch even if this Court finds that there is technical flow, in setting aside the award and remit back the matter to the trial Court, the petitioner-Judgment Debtor has imagined wrath of interest as the matter is questioned rather will save them from the payment of further interest. I deem it appropriate that execution application be treated as petition/application under Section 28-A and accordingly, executing Court shall proceed with the petition by treating it to be under Section 28-A of the Land Acquisition Act.

With the aforementioned observation, I do not find any illegality and perversity in the order under challenge.

No interference is warranted.

Dismissed.

14.03.2016

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**(AMIT RAWAL)
JUDGE**