

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

Date of Decision-04.11.2016

1. CR No.7259 of 2016

State of Haryana through Land Acquisition Collector-cum-DRO,
Gurgaon and another ... Petitioners

Versus

Bhoop Singh ... Respondent

2. CR No.7260 of 2016

State of Haryana through Land Acquisition Collector-cum-DRO,
Nuh, Tehsil Nuh, District Mewat and another ... Petitioners

Versus

Ram Dhan and others ... Respondents

3. CR No.7261 of 2016

State of Haryana through Land Acquisition Collector-cum-DRO,
Nuh, Tehsil Nuh, District Mewat and another ... Petitioners

Versus

Sukhi Ram deceased Saktoo through his LR's ...
Respondent(s)

4. CR No.7262 of 2016

State of Haryana through Land Acquisition Collector-cum-DRO,
Nuh, Tehsil Nuh, District Mewat and another ... Petitioners

Versus

Kishan Chand and others ... Respondents

5. CR No.7263 of 2016

State of Haryana through Land Acquisition Collector-cum-DRO,
Nuh, Tehsil Nuh, District Mewat and another ... Petitioners

Versus

Brij Gopal ... Respondent

6. CR No.7264 of 2016

State of Haryana through Land Acquisition Collector-cum-DRO,
Nuh, Tehsil Nuh, District Mewat and another ... Petitioners

Versus

Lehtu @ Lattu through his LRs ... Respondent(s)

7. CR No.7282 of 2016

State of Haryana through Land Acquisition Collector-cum-DRO,
Nuh, Tehsil Nuh, District Mewat and another ... Petitioners

Versus

Mukhtiyari deceased through her LRs and another .. Respondents

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

Present: Mr. Paramjeet Singh, AAG, Haryana.

RAJ MOHAN SINGH, J.

[1]. Vide this common order bunch of seven cases are being disposed of as common issue is involved in all these cases. For brevity, facts are being taken from Civil Revision No.7259 of 2016

[2]. Petitioners have assailed order dated 12.01.2015 passed by Additional District Judge, Mewat whereby objections filed by the petitioners/judgment debtors were decided on merits and the judgment debtors were directed to make good the amount of compensation to the decree holder as per memo of calculation furnished by him.

[3]. Land Acquisition Case No.9 of 17.03.2008 was decided by the Additional District Judge, Nuh along with number of connected cases in a reference under Section 18 of Land Acquisition Act for enhancement of compensation of the acquired land.

[4]. Vide judgment dated 23.09.2009, reference Court passed the order, operative part of which is reproduced hereas under:-

“21. Resultantly, in view of my findings under issue No.1 the petitioners are not entitled to receive any enhanced compensation in respect of their acquired land. However, in view of my findings returned under issue No.1-A the un-acquired land of the petitioners has been severed because of the present acquisition. So, they are entitled to get 50% of the market value assessed by the LAC vide impugned award for their severed land falling across the canal minor away from the village abadi and at the rate of 20% for the land falling on the side of the village upto the area of five acres of land. Besides that the petitioners in all the petitions are also entitled to get solatium at the rate of 30% as envisaged under sub-section (2) of Section 23 of the Act. As per provisions of Section 23(1-A) of the act, the petitioners are also entitled to an amount calculated at the rate of 12% per annum on the above mentioned assessed amount on account of severance for the period commencing on and from the date of the publication of the notification under Section 4 sub Section (i) till the award of the Collector or the date of taking possession of the acquired land, whichever is earlier. The petitioners are also entitled to interest on the said amount of compensation @9% per annum from the date of taking possession for a period of one year and at the rate of 9% per annum after the date of expiry of the said period of one year till the payment is made as provided under Section 28 of the Act. Costs of proceedings are assessed at Rs.500/- in each petition. Memo of costs be prepared accordingly. Files be consigned to record room after compliance.

Announced in open Court

23.09.2009

SD/- (R.S. Bagri)

*Additional District Judge,
Nuh”*

[5]. The unacquired land of the owners was severed on account of acquisition in question, therefore they were held entitled to get 50% of the market value assessed by the Land Acquisition Collector for their severed land falling across the canal minor away from the village abadi and at the rate of 20% for the land falling on the side of the village upto the area of five acres of land. The land owners were also held entitled for solatium at the rate of 30% under Section 23(2) of the Land Acquisition Act. They were also held entitled to benefit of Section 23(1-A) of the Land Acquisition Act i.e. additional amount @12% per annum on the above mentioned assessed amount on account of severance for the period commencing from the date of publication of notification under Section 4 of the Act till the award of the Collector or the date of taking possession of the acquired land whichever is earlier. The land owners were also held entitled for the interest on the amount of compensation @9% per annum after the date of expiry of said period of one year till payment is made as provided under Section 28 of the Land Acquisition Act.

[6]. Execution of judgment dated 23.09.2009 was filed by the land owners. Objections were filed by the judgment debtors. Executing Court vide order dated 12.01.2015 dismissed the objections and the decree holder was held entitled for amount of compensation as per memo of calculation furnished by him. Judgment debtors were directed to make payment of amount of compensation to the decree holder by 04.02.2015. Executing Court

while dismissing the objections filed by the judgment debtors has noticed that the judgment was passed specifically for the severed land which came to be existed due to construction of canal.

[7]. Evidently, judgment debtors have deposited part payment in the execution proceedings. Execution was filed in respect of remaining amount of compensation. In the main reference under Section 18 of the Land Acquisition Act, issue No.1-A was to the following effect:-

“Whether petitioners are entitled to the compensation on account of severance and if so, to what amount?”

The Court decided the aforesaid issue in the operative paras as under:-

“17. The petitioners to prove that they are entitled to compensation on account of severance examined PW 1 Gopi Ram, one of the petitioner, who deposed that prior to the present acquisition the total land was a big chunk, which had been converted into piece due to which the expenses in the form of sell, tuebwell, room, nali, water channel, water tank, etc. are required to be borne separately to provide irrigation and cultivation to the two separate pieces of land. He further deposed that utility of the land has been diminished to a great extent. The supervision and safety of crop has also been materially effected due to severance of the land. He relied upon copies of Jamabandis Ex.PW1/5 to Ex.PW1/12 and Aks Shijra Ex.PW1/4.

18. From the aforesaid oral as well as documentary evidence of the petitioners, it stands proved that land owned by the petitioners was acquired in part and the remaining land of the petitioners, left out of the acquisition, has been subjected to severance. The petitioners have been suffering a lot and the value of their remaining land has been reduced considerably.

19. Now the question arises as to what amount of compensation the petitioners are entitled because of severance of their remaining land holding. The answer to above question is given in **State of Punjab Versus Mohan Lal and others**, 1997 (3) PLR, Page 845 wherein the Hon'ble Punjab and Haryana High Court upheld the award of the learned Additional District Judge, Patiala whereby he granted compensation for severance of land at the rate of 50% of the market value of the land for the severed land falling across the canal minor away from the village abadi and at the rate of 20% of the market value of the land falling on the side of the village upto the area of five acres of land. In **State of Punjab Versus Ishar Singh**, 2009 (1) PLR, page 441 (P&H) the Hon'ble Punjab and Haryana High Court has held that land owners are entitled to severance charges to the tune of 50% of the market value instead of 25% as held by the reference Court.

20. In view of authoritative pronouncement of Hon'ble High Court in **Mohan Lal's case (supra)** and **Ishar Singh's case (supra)**, I hereby held that petitioners in all the fifteen reference are entitled to get 50% of the market value assessed by the LAC vide impugned award for their severed land falling across the canal minor away from the village abadi and at the rate of 20% for the land

falling on the side of the village upto the area of five acres of land. Hence, this issue is accordingly decided in favour of the petitioners and against the respondents.”

[8]. The land owners were also entitled for compensation on account of severance of their land. Evidently, there was a big chunk of land before acquisition in question. It was converted into pieces due to which expenses in the form of sell, tubewell, room, nali, water channel, water tank etc. were required to be borne separately to provide irrigation and cultivation to the two separate pieces of land. On account of aforesaid, the value and utility of the land decreased heavily. That is why, in the prayer clause of the aforesaid judgment, land owners were held entitled to the claim to the extent of 50% for the severed land falling across canal minor away from the village *abadi* and 20% for the land falling on the side of the village upto the area of five acres of land. The land owners were also held entitled for compensation in terms of amended provisions of the Land Acquisition Act.

[9]. From the facts and circumstances of the case, it can be noticed that the payment of compensation has been ordered as per ratio laid down in **State of Punjab Vs. Manjit Singh and another, 2012(4) RCR Civil 358** and **Gurpreet Singh Vs. Union of India (Large Bench), 2009 (2) RCR Civil 207.**

[10]. I found from the record that executing Court has rightly relied upon **Risal Singh and another Vs. Union of India and others, 2011(3) RCR (Civil) 268 (PH)** to hold that the deduction of

tax at source would only apply in case of non-agricultural land and the deduction of tax at source would apply in respect of compensation paid for acquisition of immoveable property other than the agricultural land. Even otherwise, the executing Court cannot go beyond the decree/judgment passed under Section 18 of the Land Acquisition Act. The said judgment was subject to variation in appeal only. Having attained finality on that front, the same cannot be assailed in executory mechanism.

[11]. In considered opinion of this Court, there cannot be any error of jurisdiction in the impugned order dated 12.01.2015 passed by Additional District Judge, Mewat. These revision petitions are accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

04.11.2016
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Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No