

**Civil Revision No.8192-2015 and other
connected revisions**

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

Date of Decision: 29.02.2016

1. Civil Revision No.8192-2015 (O & M)

Ajit Singh (since deceased) through his LRs and another

... Petitioners (s)

Versus

State of Punjab and others

... Respondent(s)

2. Civil Revision No.8745-2015 (O & M)

Balbir Singh

... Petitioners (s)

Versus

State of Punjab and others

... Respondent(s)

AND

3. Civil Revision No.8746-2015 (O & M)

Balbir Singh and others

... Petitioners (s)

Versus

State of Punjab and others

... Respondent(s)

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**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Vipin Mahajan, Advocate,
for the petitioners.

Mr. S.S.Chandumajra, Addl. A. G. Punjab.

Mr. Ashish Grover, Advocate,
for respondent Nos.2 and 3.

Paramjeet Singh Dhaliwal, J.

This order shall dispose of above mentioned civil revisions as common questions of fact and law are involved in all these revisions.

Before proceeding further, a brief reference to the facts is necessary which are being extracted from Civil Revision No.8192-2015.

Civil Revision No.8192-2015 has been filed under Article 227 of the Constitution of India for setting aside the order dated 03.08.2015 (Annexure P-3) whereby reference under Section 18 of the Land Acquisition Act, 1894 (for brevity, 'the Act') has been dismissed in default.

Brief facts of the case are to the effect that the land of the petitioners was acquired by the Government and an award was passed in pursuance thereof and compensation was awarded. Feeling dissatisfied by the quantum of compensation awarded, a Reference under Section 18 of the Act was sought by the claimants and the Land Acquisition Collector made the Reference to the concerned Court. The Reference

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was however dismissed in default on 26.02.2013 due to non-appearance of the counsel for the claimants. Thereafter, the petitioners moved application for restoration of the Reference and the said application was allowed, subject to costs of ₹2,500/-, vide order dated 14.07.2015 (Annexure P-2). On the adjourned date i.e. 03.08.2015, learned counsel for the petitioners appeared before the Court and offered to pay the amount of costs to the opposite party and requested for one adjournment to conclude the evidence. However, learned Reference Court did not accept the request and asked the counsel to bring the witnesses after half an hour and the case was kept pending for the same date. Thereafter, learned Reference Court dismissed the reference application in default vide impugned order dated 03.08.2015 (Annexure P-3). Hence, this civil revision.

I have heard learned counsel for the parties and perused the record.

It is a well settled law that where the claimant does not accept the award and seeks a reference under Section 18 of the Act, the Land Acquisition Officer is bound to make a reference to the Court for determination of the amount of compensation for the land acquired. Section 20 of the Act enjoins on the court to “proceed to determine the objection”. The Court shall after holding such inquiry as may be necessary pass an award. Section 26 of the Act reads as under:

"26. Form of Awards.-(1) Every award under this Part shall be in writing signed by the Judge, and

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shall specify the amount awarded under clause first of sub-section (1) of Section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub- section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2, clause (2) and Section 2, clause (9), respectively, of the Code of Civil Procedure, 1908."

The controversy involved in the present revision is covered by the judgment of the Hon'ble Supreme Court in ***Khazan Singh (Dead) by LRs vs. UOI***, AIR 2002 SC 726 wherein it has held as under:

"7. The provisions above subsumed would thus make it clear that the Civil Court has to pass an award in answer to the reference made by the Collector under Section 18 of the Act. If any party to whom notice has been served by the Civil Court did not participate in the inquiry it would only be at his risk because an award would be passed perhaps to the detriment of the concerned party. But non-participation of any party would not confer jurisdiction on the Civil Court to dismiss the reference for default."

A reference court has no jurisdiction to exercise the power otherwise than the mandate given by the letter and spirit of provisions of Sections 18, 20, 23 and 26 of the Act. Meaning thereby, reference cannot be dismissed for default. The impugned order certainly appears

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to be illegal and null and void. In the opinion of this Court, it is a fit case for this Court to exercise its powers under Section 115 CPC as well as under Article 227 of the Constitution of India.

As such, the impugned order dated 03.08.2015 (Annexure P-3) is set aside, subject to costs of ₹1,000/-, to be deposited with the District Legal Services Authority, Gurdaspur. Reference/application under Section 18 of the Act is restored to its original number and the Reference Court is directed to decide the same on merits in accordance with law. It is made clear that the petitioners will make the payment of costs of ₹2,500/- to the respondents as imposed vide order dated 14.07.2015 passed by learned Additional District Judge, Gurdaspur, in addition to the costs imposed by this Court.

Disposed of.

29.02.2016

parveen kumar

**(Paramjeet Singh Dhaliwal)
Judge**