

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

**CR No.8636 of 2015 (O&M)
Decided on: 26.10.2016**

Umed Singh and others

....Petitioners

Versus

Haryana State through the Collector, District Bhiwani and another

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Lakshman Sharma, Advocate for the petitioners.

Mr. Vishal Kashyap, AAG, Haryana.

REKHA MITTAL, J. (Oral)

The present petition has been directed against order dated 12.10.2015 passed by the Additional Civil Judge (Sr. Division), Bhiwani (hereinafter to be referred as 'the Executing Court') whereby the application for execution of the decree dated 30.07.2011 has been disposed of having been satisfied.

Counsel for the petitioners has submitted that the petitioners filed a suit for mandatory injunction titled '*Ram Singh and others vs State of Haryana and others*' and the same was decided by the trial Court vide judgment and decree dated 30.07.2011 (Annexures P1 and P2, respectively). The appeal preferred by the unsuccessful defendants came to be dismissed by the Additional District Judge, Bhiwani vide judgment dated 16.07.2014 (Annexure P3). It is argued with vehemence that as per the decree passed by the trial Court duly affirmed in appeal, the respondents/defendants were directed to pass an award under the provisions of Land Acquisition Act for land taken into possession for construction of road and to give compensation to the

plaintiffs from the date of possession, with interest @ 24% per annum. It is further argued that in the execution proceedings initiated by the petitioners, the respondents/JDs produced a letter dated 02.02.2015 (Annexure P5) which was addressed by the Additional Chief Secretary to Government of Haryana, Public Works (B&R), Department to the Engineer-in-Chief, Haryana Public Works (B&R Branch), Chandigarh under the subject '*Rough cost estimate of Land Acquisition of Construction of road from Behal to Surpura Kalan in Bhiwani District*' whereby the Government in the State of Haryana sanctioned an amount of Rs.27,600/- for payment to land owners for land acquisition for construction of road. It is argued that the Executing Court committed a gross error rather illegality by treating the letter (Annexure P5) being an award or sanction of amount of Rs.27,600/- along with interest or deposit thereof in the Court amounting to satisfaction of the decree passed by the Court. According to learned counsel, no award was passed by a competent authority by invoking the relevant provisions of the Land Acquisition Act, therefore, the impugned order may be set-aside with a direction to the Executing Court to proceed with the execution afresh and dispose of the same expeditiously, in accordance with law.

I have heard counsel for the petitioners, perused the paperbook and various annexures appended with the petition.

A bare reading of the impugned order would make it evident that the Executing Court recorded satisfaction of the decree as per letter whereby compensation to the tune of Rs.27,600/- for payment to the land owners for acquisition of land in regard to construction of

road from Behal to Surpara Kalan was sanctioned by the Government of Haryana and deposit of the amount with interest vide cheque dated 16.07.2015. The Executing Court failed to consider that as per the decree passed by the Civil Court that has attained finality, the respondents were obligated to pass an award under the provisions of Land Acquisition Act to determine compensation payable to the decree-holders from the date of possession with interest @ 24% per annum. The letter (Annexure P5), by no stretch of imagination, can be termed as an award passed under the Land Acquisition Act. There is nothing on record suggestive of the fact that the respondents/JDs initiated any proceedings for assessment of compensation and passed an award under the Land Acquisition Act. It is not clear as to what was the basis for the Government to sanction an amount of Rs.27,600/-. In this view of the matter, I find merit in contentions of the petitioners that satisfaction of the decree recorded by the Executing Court in terms of letter Annexure P5 cannot stand the test of judicial scrutiny and therefore, the impugned order is liable to be set-aside and ordered accordingly.

For the foregoing reasons, the petition is allowed, the impugned order is set-aside and the matter is remitted to the Executing Court for proceeding with the execution petition afresh, in accordance with law. The parties through their counsel are directed to appear before the Executing Court on 29.11.2016. The Executing Court is directed to decide the execution expeditiously.

26.10.2016
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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No