

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

**RFA No.3604 of 2013 (O&M)
Date of Decision : 15.11.2016.**

Shanti Devi and others

.....Appellants

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr.Vikas Mohan Gupta, Advocate for the appellants.
Ms. Safia Gupta, AAG, Haryana for respondents No.1 and 2.
Mr. Pritam Saini, Advocate for respondent No.3.
Mr. Anil Dutt, Advocate for respondents No.5 and 6.
Mr. Rajesh Bansal, Advocate for respondent No.7.

ARUN PALLI, J. (Oral)

Vide award being assailed dated 22.04.2013, rendered by the reference Court, the market value of the acquired land was assessed at ₹21 lacs per acre. However, owing to the dispute, as regards apportionment of compensation, between the appellants and respondents No.4 to 7, it was held that the appellants shall be entitled to only 50% of the assessed compensation.

Learned counsel for the appellants submits that originally the land measuring 58 kanals 4 marlas was owned by Tulsi Ram and Munshi Ram, who happened to be the real brothers, to the extent of half share each. Appellants purports to be the progeny of Munshi Ram. Whereas, respondents No.4 to 7 are the successors-in-interest of Tulsi Ram. He submits that although, in proportion to the share of private respondents they

were owners to the extent of 29 kanals 2 marlas in the joint khata but the evidence on record proved beyond doubt that respondents No.4 to 7 had already sold an area more than their share, i.e. 33 kanals 2 marlas, in the joint land much before the acquisition. Thus, the land measuring, 15 kanals 4 marlas, that was acquired, was within and out of the share of the appellants, and therefore, they alone were entitled to compensation. He submits that despite the fact that the reference Court recorded a finding that respondents No.4 to 7 had no share in the acquired land, measuring 15 kanals 4 marlas, but yet held that the appellants shall be entitled to only half of the compensation. For, it could not be proved that the land which was jointly owned by the parties was ever partitioned.

Further, he submits that in a suit filed by the appellants against the private respondents, the Civil Court vide its judgment and decree dated 24.02.2014, had found that the appellants, indeed, were entitled to the compensation for the acquired land, for, the private respondents had already sold more than their share in the joint khata. But, still, the appellants were injuncted to withdraw more than 50% compensation, for, the appeal in hand, against the award of the reference Court, was pending before this Court. Thus, it is submitted that the appellants alone were/are entitled to the compensation awarded by the reference Court. Particularly, when the decree dated 24.02.2014, rendered by the Civil Court has become final for, the appeal filed against the said decree was dismissed in default on 03.09.2015.

The factual position as set out above is not disputed by learned

counsel for respondents No.5 to 7. However, all what has been urged is that as the land measuring 58 kanals 4 marlas, which was jointly owned by the predecessors-in-interest of the parties, was never partitioned, appellants could not claim the entire compensation to the exclusion of the private respondents.

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

What needs to be noticed, is the fact that the private respondents owned 29 kanals 2 marlas of land, in proportion to their share, in the joint khata is not disputed. It has been found as a fact that vide separate sale deeds respondents No.5 and 7 have rather sold a land measuring 33 kanals 2 marlas, that is, in excess of their share. Once the respondents were left with no right, title or interest in the remaining land, it completely pales into insignificance, particularly for assessing and awarding compensation for the acquired land, whether the joint khata was ever partitioned. Needless to assert, that it is only the landowner who is entitled to compensation in lieu of his land, however respondents ceased to have any title at the time of acquisition of the land. That being so, the appellants alone shall be entitled to the compensation awarded by the reference Court.

As regards the claim for enhancement of compensation, learned counsel for the appellants submits that in the appeals arising out of the same acquisition that is RFA No.7958 of 2011 (Sultan Singh Vs. State of Haryana and others), this court had enhanced the compensation awarded to the landowners at ₹45,00,000/- per acre for the land abutting G.T. Road up to

the depth of four acres, and ₹36,00,000/- per acre for the remaining land, vide its order and judgment dated 3.11.2015.

The factual position, as set out above is not disputed by learned counsel for the State, and rather, she fairly submits that the matter in issue is squarely covered by the decision dated 3.11.2015, rendered by this Court in the case of Sultan Singh (supra).

That being so, the appeal is disposed of in terms of the decision of this Court dated 3.11.2015, in the case of Sultan Singh (supra). The award rendered by the reference Court is accordingly, modified in the above terms.

15.11.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No