

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

RFA-10309-2014
Date of decision:5.1.2016

Gram Panchayat, Shahbajpur

...Appellant

Versus

Phool Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Ajay Jain, Advocate for the appellant.
Mr.Sanjay Mittal, Advocate for the respondent.
Mr.Arun Beniwal, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

This regular first appeal is directed against the award dated 31.5.2014 passed by the learned Reference Court, whereby reference filed by the respondents-land owners under Section 30 of the Land Acquisition Act, 1894 ('the Act' for short) was allowed, declaring them entitled to receive the compensation, proportionate to their share, in the acquired land.

Brief facts of the case are that the State of Haryana sought to acquire land measuring 167K-4M situated in the revenue estate of village Piwara, Tehsil and District Rewari at public expenses for the public purpose namely for the development and utilisation of land as residential and commercial for Sectors 17, 18, 19 and 20 at Rewari. Notification for the said purpose was issued on 27.1.2003 under Section 4 of the Act which was followed by notification dated 23.1.2004 under Section 6 of the Act. Award No. 32 dated 20.1.2005 was announced by the Collector. Land owners-respondents herein, filed their objections claiming themselves to be the

persons interested, being proprietors of the village and the share holders in the acquired land and name of appellant-Gram Panchayat, Shahbajpur having been recorded wrongly in the column of ownership in the record of rights. Both the parties led their evidence. After hearing the learned counsel for the parties and going through the record of the case, the learned Reference Court came to the conclusion that claim put forth by the appellant-Gram Panchayat was misconceived and accordingly, petition under Section 30 of the Act filed by the claimants-respondents was allowed vide impugned award dated 31.5.2014. Hence this appeal, at the hands of the Gram Panchayat.

Having heard the learned counsel for the parties, after careful perusal of the lower court record and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that instant appeal is without any merit and the same is liable to be dismissed, for the following more than one reasons.

It is a matter of record and not in dispute that the State of Haryana has acquired similar land of this very village at an earlier point of time vide Award No.10 dated 24.3.1993. Similar dispute arose and the reference under Section 30 of the Act filed by one Smt. Sona Devi and others was allowed by the learned Reference Court vide its award dated 4.1.2003 Ext. P8, which is available at page 351 of the lower court record ('LCR' for short). Present appellant-Gram Panchayat was respondent No.2 in the award Ext.P8. Gram Panchayat did not file any appeal against the above-said Award dated 4.1.2003 Ext.P8 and the same has attained finality.

Having been failed before the learned Reference Court, appellant Gram Panchayat filed a civil suit for declaration and the

permanent injunction bearing Civil Suit No. 558 of 2001/2014, whereby an earlier award dated 2.5.2001 which was similar to Ext.P8 was challenged by the Gram Panchayat. Land-owners including some of the present respondents or their predecessors-in-interest were party-defendants in the said civil suit. However, the suit of the Gram Panchayat came to be dismissed by the learned civil court vide judgment dated 7.1.2008 Ex.P1 at page 297 of the LCR.

Dissatisfied, Gram Panchayat filed its first appeal which also came to be dismissed vide judgment dated 22.5.2009. This fact has not been disputed by the learned court for the appellant-Gram Panchayat and also finds mentioned in para 14 of the impugned award at page 18 of the paper-book. Again, some of the predecessors-in-interest of present respondents-claimants filed as many as 103 references under Section 18 of the Act, arising out of earlier acquisition, vide notification dated 30.3.1990 under Section 4 of the Act. All these references were allowed by the learned Reference Court vide judgment dated 2.5.2001 Ex.P10 at page 369 of the LCR, which is also not in dispute. Further, Mukhram, Sarpanch of the appellant-Gram Panchayat, when appeared as RW-1, admitted that the land owners of shamlat deh had received the compensation from the government for their acquired land. He also admitted that the appellant Gram Panchayat never leased out this land to any one.

Another equally strong reason against the appellant-Gram Panchayat is that CWP No.16164 of 2001 titled as Gajraj Singh etc. v. State of Haryana etc., filed by the proprietors of the village like the respondents herein was allowed by this Court, whereby mutation sanctioned in favour of the appellant-Gram Panchayat, on the basis of Act No.9 of 1992 amending

the definition of “shamlat deh” land in the Punjab Village Common Act, 1961 came to be cancelled. Copy of this writ petition is available on record as Ext. P25.

When confronted with the above-said material aspects of the matter, with supporting material available on record, learned counsel for the appellant Gram Panchayat had no answer and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that the appellant-Gram Panchayat had no interest in the entire land and the learned Reference Court was justified in holding the claimants-respondents entitled to receive the compensation, proportionate to their share in the acquired land and the impugned award deserves to be upheld.

Learned counsel for the parties are ad idem that neither any other RFA was filed by the present appellant-Gram Panchayat either against earlier award Ext.P8 or regarding the present acquisition nor any other such RFA is pending, which might have been filed on behalf either of the parties.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant appeal filed by the Gram Panchayat is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present appeal stands dismissed, however, with no order as to costs.

5.1.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE