

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1705 of 2017(O&M)
Date of Order:24.07.2017

Mehmood and another

..Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tanmoy Gupta, Advocate,
for the petitioners.

ANIL KSHETARPAL, J (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India, against order passed by the Executing Court, dated 10.11.2016, whereby the objections filed by the judgment debtors were accepted and application for providing police help was dismissed. The execution petition was also disposed of as having been fully satisfied.

Plaintiffs-petitioners had filed a suit for permanent injunction, restraining the defendants from encroaching upon the suit land or any part thereof. It was further prayed that construction of road or berm over the suit land be stayed.

The learned Additional Civil Judge (Sr. Divn.), Ferozepur Jhirka, decreed the suit filed by the plaintiffs. Last paragraph of the judgment reads as under:-

“20. As a natural consequence of the findings recorded herein above, the suit of the plaintiffs succeed and the same is hereby decreed. A decree for permanent

injunction restraining the defendants from undertaking any construction activity of constructing road or berm over the suit property, is hereby passed in favor of the plaintiff. The defendants are directed to initiate acquisition proceedings of the land in question and after adequate compensation had been paid to the plaintiffs it may start with the constructions process. There is no order as to costs. Decree-sheet be drawn accordingly. File be consigned to record room.”

Appeal filed by the State of Haryana as also the cross objections filed by the plaintiffs were ordered to be dismissed by a common judgment dated 03.05.2014.

Decree holder filed execution petition. In execution petition, JDs filed objections mentioning that acquisition proceedings were started with respect to land measuring 4 kanals 0 marla and compensation of Rs.11,05,000/- has been assessed which includes solatium etc. The aforesaid amount has been deposited by the judgment debtors vide treasury challan dated 07.09.2016. It was further submitted that decree holders have refused to receive the compensation.

On the other hand, decree holders filed the application for providing police help on the ground that the decree is being violated. Learned Executing Court vide order dated 10.11.2016, allowed the objections filed by the judgment debtors, dismissed the application of decree holders for providing police help and also dismissed the execution petition as having been satisfied. It is against this order the present revision petition has been filed.

I have heard counsel for the petitioners at length and with his able assistance gone through the paper book.

Learned counsel for the petitioners has argued that acquisition proceedings have not been initiated, therefore, determination of compensation, if any, is without jurisdiction. He has further submitted that totally inappropriate compensation has been assessed and he has not been given any right to file objections.

I have considered the arguments advanced by counsel for the petitioners and, in my opinion, there is no force in the submissions made by counsel for the petitioners.

The State of Haryana has filed objections specifically stating that acquisition proceedings were started with respect to land measuring 4 kanals 0 marla and compensation including solatium to the tune of Rs.11,05,000/- has been assessed. It has further been stated by the State of Haryana that the aforesaid amount has already been deposited vide treasury challan dated 07.09.2016, as decree holders refused to receive the compensation.

Learned counsel for the petitioners has further submitted that compensation assessed by the State is ex-parte, inadequate and without giving right to the decree holders to file objections and without following the law prescribed under the Land Acquisition Act

Compensation for compulsory acquisition of land is assessed by the Land Acquisition Collector, in accordance with the Land Acquisition Act. There is a procedure prescribed for seeking reference in case the land owner is not satisfied by the compensation assessed.

Taking into consideration the facts available on the file and the objections filed by the State of Haryana, there is no force in the revision petition, the same is ordered to be dismissed.

July 24, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No