

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

219

CR No. 3898 of 2016

Date of Decision: October 31, 2017

Balram Singh deceased Through LR's

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE B.S. WALIA.

Present:- Mr. G.S. Bhatia, Advocate,
for the petitioner.

Respondent Nos. 1 and 3 have already been ex-parte
vide order dated 17.08.2016.

Ms. Avin Kaur, Advocate, for
Mr. Amit Aggarwal, Advocate,
for respondent No. 2.

B.S. WALIA, J. (Oral)

1. Learned counsel for the petitioner, *inter alia*, contends that the petitioners are the legal heirs of late Shri Balram Singh whose land was acquired for construction of SYL Canal. Enhanced compensation on account of acquisition of land of the petitioner's father i.e. Balram Singh was deposited in the Executing Court. The petitioners moved execution application before the learned Additional District Judge, Rupnagar for payment of compensation being the legal heirs of Shri Balram Singh on the basis of Will. Two sisters of the petitioners, filed an affidavit before the Executing Court that they were not interested in making any claim with regard to the compensation on account of acquisition of their father's land.

However, one out of them namely, Mohinder Kaur @ Kuldeep Kaur-

respondent No. 3 herein, subsequently backed out and made a claim for payment of compensation as per her share and not on the basis of Will allegedly executed by her father. Respondent No. 3 also filed a civil suit challenging the Will executed by her father in favour of her seven brothers, with the prayer that compensation be not disbursed to the claimants till the decision of the civil suit. The said civil suit is still pending. Execution petition filed by the LR's of deceased Balram Singh on the basis of Will was disposed of vide order dated 15.11.2013 directing 1/9th share to be released to Mohinder Kaur @ Kuldeep Kaur i.e. Respondent No. 3 herein. Civil Revision No. 1699 of 2014 challenging order dated 15.11.2013 was filed by the petitioners and the same was disposed of vide order dated 22.12.2015. Relevant extract of the aforementioned order is reproduced hereunder :-

'The impugned order is modified to the extent that the revision petitioners will be permitted to withdraw 8/9th share of the amount in deposit giving due credit to the amount which is already drawn and 1/9th of the amount under the award that is claimed by the respondent shall be retained and at the option of the parties to be invested in any bank deposit yielding interest till the final decision before the Executing Court.'

2. A perusal of order Court dated 22.12.2015 (Annexure P-1) reveals that petitioners were permitted to withdraw 8/9th share of the amount in deposit giving due credit to the amount already drawn while 1/9th of the amount under the award that was claimed by respondent No. 3 was ordered to be retained at the option of the parties to be invested in any bank deposit yielding interest till the final decision of the Executing Court.

3. On the basis of the same, learned counsel for the petitioners

contends that the petitioners are entitled to 8/9th share of the amount in deposit giving due credit to the amount which is already drawn while 1/9th of the amount under the award claimed by respondent No. 3-Mohinder Kaur @ Kuldeep Kaur was ordered to be retained at the option of the parties to be invested in any bank deposit yielding interest subject to the final decision of the Executing Court.

4. Learned counsel contends that the execution proceedings had resulted in passing of order dated 15.11.2013 disposing of the execution application directing the parties to get their title/inheritance to the estate of deceased-Balram Singh decided from the Civil Court.

5. Learned counsel contends that the Civil Suit filed by Respondent No. 3-Mohinder Kaur @ Kuldeep Kaur, is still pending and has not been decided. Grievance of the petitioners is that despite the aforementioned position, the learned Additional District Judge, Rupnagar, vide order dated 05.03.2016 wrongly held the petitioners to be entitled to the release of deposited amount to the extent of 1/7th share each and amount of 1/7th share belonging to Balwinder Kaur, another daughter was ordered to be released in her favour individually against proper receipt and identification while further directing 1/9th share of Mohinder Kaur @ Kuldeep Kaur-respondent No. 3, herein to be retained as per orders dated 22.12.2015 i.e. Annexure P-3 in Civil Revision No. 1699 of 2014.

6. Learned counsel contends that the learned Executing Court misconstrued the order of this Court dated 22.12.2015 inasmuch as all the seven petitioners were to be given total 8/9th share of the deposited amount after giving due credit to the amount which was already drawn, while 1/9th of the amount that was claimed by respondent No. 3-Mohinder Kaur @ Kuldeep

Kaur was ordered to be invested in a bank till the final decision before the Executing Court.

7. Learned counsel for the petitioners prays for modification of order dated 05.03.2016 to the extent that the order of this Court dated 22.12.2015 passed in Civil Revision No. 1699 of 2014, be complied with.

8. I have considered the submissions made by learned counsel for the parties and am satisfied that order dated 05.03.2016 passed by the learned Additional District Judge, Rupnagar, is not in consonance with order Annexure P-3 dated 22.12.2015 passed by this Court in Civil Revision No. 1699 of 2014, inasmuch as the learned Executing Court has wrongly directed the release of 1/7th share to Balwinder Kaur, another daughter of Balram Singh, who according to learned counsel for the petitioners never made a claim before the Executing Court, besides had filed affidavit dated 28.05.2010, before the Executing Court (Ex. PW4/A) that she was not making any claim with regard to the compensation on account of acquisition of her father's land and that the same be paid exclusively to her seven brothers.

9. In so far as the claim of respondent No. 3 Mohinder Kaur @ Kuldeep Kaur, is concerned, the same is subject to outcome of the decision of the Civil Court wherein challenge has been made by said Mohinder Kaur to the Will executed by Balram Singh.

10. Accordingly, the Executing Court would release 8/9th share of the total deposited amount to the petitioners giving due credit to the amount which is already withdrawn while 1/9th share of the amount under the award as is claimed by respondent No. 3-Mohinder Kaur @ Kuldeep Kaur, would

be disbursed on the outcome of the civil suit and the decision in respect thereto by the Executing Court.

11. Revision petition stands allowed as above.

October 31, 2017
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(B.S. WALIA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>