

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

Date of decision: 17.07.2017

CR No.4456 of 2017 (O&M)

Karan Kumar

...Petitioner

Vs.

Rajinder Kumar & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Jatinder Jit Kaur & Mr. Ish Puneet, Advocate,
for the petitioner.

Mr. Jatinder Nagpal, Advocate, for the caveators.

RAJIV NARAIN RAINA, J. (ORAL)

The dispute in the case relates to apportionment of compensation given by the National Highway Authority of India (NHAI) for acquiring the disputed suit land to widen the highway. The suit land falls to the share of defendant 1 to 4. Plaintiff claims share under a family settlement that is the subject matter of the dispute and, thus, no comment is made to those facts least parties are prejudiced by an observation on merits.

This petition has been filed under Article 227 of the Constitution against the interlocutory appellate order dated 6th May, 2017 passed by the Additional District Judge, Ferozepur vacating the interim injunction granted by the Additional Civil Judge (Senior Division), Zira.

Three reasons have been assigned by the lower Appellate Court to lift the order passed under Order 39 Rule 1 & 2 of the CPC by the trial Court in favour of the plaintiff-petitioner. The first reason emanated from the averments in the written statement of defendant 5 & 6 that they have

been given their share in the compensation as per their shares reflected in the revenue record. Therefore, it is the share of the remaining co-sharers which is to be disbursed. According to the order this fact has been concealed in the plaint. Having received their shares, they cannot stall the process of disbursement of shares to other co-sharers. The revenue record confirms that plaintiffs and defendants are entered as co-sharers.

The second reason assigned to set aside the trial Court order granting temporary injunction is that the entitlement to the compensation amount lies within the purview of the Land Acquisition Collector / Tribunal and it is that forum which will decide on apportionment.

Thirdly, if the temporary injunction is allowed to stand, then a quantified amount of money would have to be disbursed; which if the plaintiff is later found entitled to, can always recover from the defendants.

The Additional District Judge, Ferozepur in a well considered detailed order running into 16 pages has applied his mind to the three tests of grant of injunction in a perfectly balanced manner and I have no reason to interfere with the same.

Consequently, while upholding the order, the instant petition is ordered to stand dismissed.

17.07.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*