

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

**CR No.7083 of 2016
Date of Decision:6.10.2017**

Jagir Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Naresh Kaushal, Advocate for the petitioners.
Mrs.Anju Sharma Kaushik, DAG, Punjab.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 18.9.2015 (Annexure P-4), whereby the application under Section 18 of the Land Acquisition Act, 1894 ('the Act' for short), moved by the petitioners, seeking reference to the learned reference court was dismissed, petitioners have approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

Learned counsel for the petitioners places reliance on the award dated 16.7.2015 (Annexure P-3) and also the award dated 16.9.2016 (Annexure P-5) passed by the learned reference court, arising out of the same acquisition, to contend that the Land Acquisition Collector exceeded his jurisdiction, while passing the impugned order, thereby rejecting the application of the petitioners under Section 18 of the Act.

When confronted with the above-said factual as well as legal aspect of the matter, learned counsel for the State submits that petitioners themselves furnished an undertaking to the effect that they shall not seek any reference for further enhancement of compensation. She seeks dismissal of the present civil revision petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the impugned order is clearly an order without jurisdiction and the same cannot be sustained. It is so said because there would not be any estoppel against the statute. The ownership of the petitioners qua their acquired land had never been in dispute. Their land was acquired and the Land Acquisition Collector passed his Award No.527 dated 30.12.2011. Petitioners had every right to seek reference under Section 18 of the Act. As and when such an application under Section 18 of the Act was to be moved by any land owner, the Land Acquisition Collector was duty bound to refer the same to the learned reference court. It shall be the exclusive domain of the learned reference court to decide the reference, in accordance with law. Having said that, this Court feels no hesitation to conclude that since the impugned order is palpably illegal, it cannot be sustained.

It is not even the argued case on behalf of the State that the application moved by the petitioners under Section 18 of the Act was hopelessly time barred or it was filed after an inordinate and unexplained

delay. Once other identical applications under Section 18 of the Act had been referred by the same Land Acquisition Collector pertaining to same acquisition and said fact is duly supported by two awards dated 16.7.2015 (Annexure P-3) and 16.9.2016 (Annexure P-5) passed by the learned reference court, the Land Acquisition Collector was duty bound to allow the application moved by the petitioners. However, since he has exceeded his jurisdiction, while passing the impugned order, it cannot be sustained, for this reason also.

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 since the impugned order has been found suffering from patent illegality and perversity, it cannot be sustained. Accordingly, the impugned order dated 18.9.2015 is hereby set aside.

The Land Acquisition Collector is directed to refer the matter to the learned reference court by passing an appropriate order, without any further delay so that the learned reference court may decide the references of the petitioners, in accordance with law.

Resultantly, with the above-said observations made and directions issued, the present civil revision petition stands allowed, however, with no order as to costs.

6.10.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No