

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.22922 of 2017

Date of decision:09.10.2017

Vikas Yadav and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr.Ajay Jain, Advocate for the petitioners

ARUN PALLI, J. (Oral):

This is a petition under Articles 226/227 of the Constitution of India praying for a writ of mandamus, directing the Executing Court not to disburse the amount of enhanced compensation, qua the share of the petitioners to respondents No.5 to 10, till the decision of the civil Court, as regards the validity of the Will dated 21.12.2015. And, further, the said amount be deposited in a fixed deposit receipt, to be payable to a party who succeeds in the suit, that is pending before the Additional Civil Judge (Sr.Division), Rewari.

The facts that are required to be noticed are limited.

Dispute is qua the estate of late Shiv Lal, who happened to be the father of respondents No.5 to 8, and grandfather of the petitioners as also respondents No.9 to 12.

Vide notification dated 14.11.2006 issued under Section 4 of the Land Acquisition Act 1894 (for short, 'the Act'), a land situated in village Gokalgarh, Tehsil and District Rewari, including the land holding

of late Shiv Lal, was sought to be acquired for the development and utilisation of land for the outer ring road green belt on both sides of Pataudi Road upto Jhajjar Road Rewari. Vide award dated 29.03.2007, the Land Acquisition Collector assessed the value of the acquired land at ₹ 12,50,000/- per acre. The reference Court, vide award dated 12.11.2011, enhanced the compensation, uniformly to ₹ 20,00,000/- per acre. Late Shiv Lal, filed four separate appeals against the award dated 12.11.2011, for further enhancement. However, during the pendency of the appeals, Shiv Lal died on 24.12.2015. Application moved by respondents No.5 to 10, to be arrayed as legal representatives of the deceased, on the basis of the Will dated 24.12.2015, alleged to have been executed in their favour, was allowed by this Court. And, eventually, vide order and judgement dated 19.02.2016 (Annexure P-1), rendered in RFA No.48 of 2012, and other connected matters (Harphool vs. State of Haryana and others), this Court further enhanced the compensation awarded to the claimants/landowners. Respondent Nos.5 to 10 purport to have moved the executing Court for release of enhanced compensation, in terms of the order and judgement dated 19.02.2016 (Annexure P1). Resultantly, the petitioners moved a petition under Section 30 of the Act, before the Additional District Judge, Rewari, disputing the Will dated 24.12.2015, and for apportionment of compensation. However, vide order dated 08.03.2017 (Annexure P-4), the learned Additional District Judge, Rewari, disposed of the matter, for, without any formal reference under Section 30, by the Collector such a petition was not even maintainable. However, petitioners were granted 30 days' time from the date of passing of the said order to move the Land Acquisition Collector. It was also observed that in the event, the petitioners

move the Collector within the stipulated time, he shall make the reference within next 30 days, and, in the meanwhile, the compensation shall not be released in favour of any of the parties. And, the petitioners, in terms of order dated 08.03.2017 (Annexure P-4), made a representation, dated 04.09.2017 (Annexure P5). Further, even a suit filed by the petitioners against respondent Nos.5 to 10, wherein they have challenged the execution and validity of the Will dated 21.12.2015, was also pending before the trial Court.

I have heard learned counsel for the petitioners and perused the record.

Ex facie, in terms of the order dated 08.03.2017 (Annexure P-4), rendered by the Additional District Judge, Rewari, the petitioners were required to move the Collector within 30 days from the date of the said order:

“Keeping in view the above discussion, this court is of the view that this reference petition be disposed with liberty to the petitioners to move their proper objections/petition before the LAC within 30 days, if petitioners are still interested in pursuing the matter. The LAC is supposed to make the reference petition within next 30 days. If same appears to be the requirement of the law. In the meantime, i.e. within duration of this two months period the LAC would not release payment of land compensation or the payment of enhanced land compensation in favour of any of the landowners/landloosers.

Concededly, the petitioners never complied with the order dated 08.03.2017, referred to above. Rather, belatedly, a representation dated 04.09.2017 (Annexure P5) was made to the Collector i.e. way beyond the stipulated time. Be that as it may, the suit filed by the petitioners against respondents No.5 to 10, wherein they have questioned the validity and execution of the Will dated 21.12.2015, is pending before the Additional Civil Judge (Sr.Divn.) Rewari. And, the questions; (a) Whether late Shiv Lal had any right to execute the Will qua the acquired land, for, the petitioners claim that property in the hands of the deceased was ancestral and coparcenary? (b) And, even if the acquired land was the self acquired property of the deceased, still, the Will dated 21.12.2015 was not duly and validly executed?, are being adjudicated upon. That being so, the petitioners ought to have moved the trial Court, which is in seisin of the dispute between the parties, for redressal of their grievance, if any.

In conspectus of the above no interference is indeed warranted in exercise of jurisdiction under Article 226 of the Constitution of India. The petition being bereft of merit is accordingly dismissed.

October 09, 2017

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(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes/No
Yes/No