

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

RFA No.2332 of 2013
Date of decision: 07.03.2017

Ishar Kaur and another

... Appellants

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Jarnail Singh Saneta, Advocate for the appellants.

ARUN PALLI J. (Oral)

This is an appeal against the award dated 04.12.2012, rendered by the Reference Court, vide which the dispute between the appellants and respondents No.5 to 8, under Section 30 of the Land Acquisition Act, 1894, has since been determined in favour of the respondents.

The facts that are required to be noticed are limited.

The dispute is qua the estate of Manak Singh son of Budh Singh. The appellants are the daughters of the deceased Manak Singh from his first wife, namely, Sumitra Kaur. Post death of Sumitra Kaur, Manak Singh had performed a second marriage with Sheela Devi (respondent No.5). And respondents No.6 to 8 are sons of Manak Singh, but from the second marriage. Therefore, the case of the appellants is that after the death of Manak Singh, the land in question devolved upon respondents No.5 to 8 as also the appellants in equal shares i.e. 1/6th shares each.

Whereas, the case set out by respondents No.5 to 8 was/is that the appellants had no right, title or interest in the disputed land, for vide

relinquishment deed dated 07.03.2002 (Ex.P5), the appellants had relinquished their interest in favour of respondents No.5 to 8.

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

On an analysis of the matter in issue and the evidence on record, the Reference Court reached a conclusion that the appellants had even assailed the relinquishment deed by way of a Civil Suit No.56 of 2007, which was got dismissed as withdrawn on 01.05.2007, vide appellants' statement (Ex.P6) and order (Ex.P7). Not just that, Ishar Kaur and Kesar Kaur (appellants) had specifically stated on oath before the Court that they indeed had executed relinquishment deed dated 07.03.2002, bearing vasika No.1677/1, in favour of respondents No.5 to 8. The case of the appellants that respondents No.5 to 8 had failed to prove the execution of relinquishment deed dated 07.03.2002, for, neither any marginal witness nor thumb impression of the appellants were got compared with their standard/admitted thumb impressions, was also rejected by the Reference Court. For, the relinquishment deed was a registered documents and the execution of the said deed was admitted by none other than the appellants themselves in the statement before the Civil Court on oath in Civil Suit No.56 of 2007. Certified copy of the said statement was placed on record as Ex.P6, and it was never the case of the appellants, at any stage, that they had ever withdrawn or resiled from the said statement. Even otherwise, the Reference Court was of the view that if the said suit was decided on the basis of the statement suffered by the appellants, the said judgment/decreed could only be challenged under Order 23 Rule 3A of the Code of Civil Procedure or by way of separate suit on the basis of fraud. That being so,

the appellants were not found entitled to any apportionment in the compensation that was awarded by the Reference Court. Needless to assert, once the appellants did not have any right, title or interest in the acquired land, they could not stake any claim for awarding or apportionment of compensation.

Learned counsel for the appellants could not point out as to how the conclusion arrived at by the Reference Court was either contrary to the record or suffered from any material illegality. No other argument was advanced.

That being so, the only and the inevitable conclusion one could reach is that the appeal is wholly devoid of merit, and is accordingly dismissed.

March 7, 2017
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO