

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

CR No.2257 of 2015 (O&M)

Date of decision : 25.04.2018

Baldev Singh and another

...Petitioners

Versus

Union of India

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Aggarwal, Advocate for the petitioners.

Mr. Vivek Singla, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The petitioner's land was acquired by the Union of India through Defence Estates Officer.

As per the award, compensation was paid and thereafter even the market value as determined by the Court has also been paid. An application for refund of excess payment deposited on LR No.02/85 was filed by Union of India pleading that under LR No.02/85, excess payment has been paid to the petitioners-erstwhile landowners.

In reply, the petitioners contested the position and pleaded that the land of the petitioners in various khatas was acquired. It was pleaded that not only land measuring 1 kanal and 16 marlas was acquired but more than 30 acres of land in joint khewat owned by the petitioners alongwith certain various landowners was also acquired. A reading of the order passed by the learned Additional District Judge establishes that the defence taken by the petitioners that the compensation was paid through a consolidated cheque representing not only the compensation with respect to the land measuring 1

kanals and 16 marlas but it was also representing the acquisition of the other land through same acquisition, has not been examined. In para 3 of the order, learned Additional District Judge has, in fact, referred to the reply as noticed above, wherein the refund as claimed was defended on the ground that there was more than 30 acres of joint land belonging to the petitioners which was also acquired.

In view of the aforesaid, the order under challenge is set aside to the extent that the Court would re-examine the claim of the Union of India for entitlement vis-a-vis the defence taken.

Learned Additional District Judge is directed to re-decide the application for refund after examining the defence of the petitioners, whether the compensation was paid through consolidated cheque representing the payment not only with respect to the land measuring 1 kanals and 16 marlas but also other land owned by the petitioners?

Keeping in view that the application for refund is pending for almost 5 years, learned Additional District Judge is requested to re-decide the application within a period of 6 months from the date of receipt of certified copy of the order.

Parties through their counsel are directed to appear before the learned Additional District Judge on 09.05.2018.

In view of the above, the present revision petition is disposed of.

25.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No