

216

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

CR No.2482 of 2015

Date of Decision: 19.11.2018

PARKASHO DEVI AND ORS

.....Petitioners

Vs

UNION OF INDIA AND ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. R.S. Manhas, Advocate
for the petitioners.

Mr. Majul Rana, Advocate for
Mr. R.S. Malik, Advocate
for respondent No.1.

Mr. Vishal Aggarwal, Advocate
for respondents No.12 to 14.

RAJ MOHAN SINGH, J. (Oral)

Petitioners have assailed the order dated 24.03.2015 passed by the Addl. District Judge, Pathankot vide which the application for disbursement of compensation was allowed.

Admittedly, the Will dated 27.12.1983 executed by Banka Ram (original owner) in favour of petitioners No.1 and 2 was discarded by the Civil Court and all the legal heirs of Banka Ram were held entitled to inherit the property held by Banka

Ram. In the event of acquisition of the property, all the legal heirs are held entitled to the compensation as per their shares.

Learned counsel for respondents No.12 to 14 has stated at the bar that except the amount of Rs.5-6 Lakhs, payments have already been released in favour of the legal heirs of Banka Ram to their satisfaction.

Learned counsel for the petitioners submitted that the executing Court cannot go behind the decree/order of the reference Court.

At the time of issuance of notice of motion on 09.04.2015, following order was passed by the Co-ordinate Bench of this Court:-

“Notice of motion for 21.08.2015.

The counsel refers to the fact that it has already been held by several decisions that the third party cannot object at the time of execution of an award that the money belongs to him and all adjudication regarding the right will be done only in reference under Section 30. The petitioner himself is prepared to admit that the claim to the whole of the amount for the property acquired was based on a Will bequeathed in his favour but in Civil Court adjudication brought at the instance of the petitioners before the Executing Court, the Will was found to be not true and the contention of the petitioners before the Court below was upheld. I will not find any justification for grant of any stay in situation where the present petitioners' right to withdraw the whole money is suspect. I decline to grant any stay. Any withdrawal of the amount needless to state will be subject

to the final outcome of the civil revision. I will also find no cause for directing any condition to be imposed for withdrawal since the right is on the basis of civil court decree in which the petitioner was a party.”

Evidently, there was no stay granted by this Court and in the meanwhile the executing Court has disbursed the amount to the rightful claimants.

Evidently, the amount of compensation was enhanced at the instance of the petitioners. Fact remains that enhancement was done qua the entire acquired land and not to the extent of shares of the petitioners.

In my considered opinion, this revision petition appears to have rendered infructuous in view of release of bulk amount in favour of original claimants. *Qua* the remaining amount which has not been released so far, the same shall be released in favour of the rightful claimants in accordance with law.

In view of above, there is no error of jurisdiction in the impugned order passed by the executing Court. This revision petition is dismissed as having become infructuous.

November 19, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No