

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

1. CR No.2984 of 2013 (O&M)
Date of decision : 21.03.2018

Swaran Singh @ Sudhan Singh @ Balbir Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

2. CR No.3772 of 2013 (O&M)
Date of decision : 21.03.2018

Swaran Singh @ Sudhan Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ram Pal Verma, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

This order shall dispose of revision petition bearing CR Nos.2984 and 3772 of 2013, as the issue which needs determination is common. The petitioner's land was compulsorily acquired. The compensation as assessed by the Collector was enhanced on a reference under Section 18 of the Land Acquisition Act. Even in the first appeal, the

market value as assessed was further enhanced. It is not in dispute that State of Haryana paid the compensation in part. It is the case of the petitioner that they are entitled to adjust the part payment, first towards the interest thereafter towards costs and residue, if any, towards principle while relying upon the judgment passed by the Hon'ble Constitution Bench in *Gurpreet Singh Vs. Union of India, (2006) 8 SCC 457*, whereas it is the case of the State that since in Form-D, the amount was deposited indicating it to be principle amount, therefore, it has to be adjusted first towards principle.

Learned counsel for the State was called upon to prove that Form-D was ever supplied to the petitioner in both the revision petitions. He has expressed his inability.

Learned counsel for the parties have filed fresh calculations.

A careful reading of the judgment passed by the Hon'ble Supreme Court shows that normal principle is to adjust the amount enhanced, first in the interest due then towards the costs and in the last, towards principle, in case where payment is in part. No doubt, Hon'ble the Supreme Court has also observed in para No.51 as under:-

“Prem Nath Kapur (supra) also indicates that when an award-decree is passed specifying the amounts under different heads like the amount under Section 23(1), the amount under Section 23(2), the amount under Section 23 (1A) and the interest under Section 28 and the judgment debtor makes a deposit of specified sums under these different heads, it will amount to the judgment debtor intimating the decree holder as to how the sum deposited is to be applied in discharge of the obligation of the judgment debtor. Once a decree holder receives the payment of the

sums thus deposited, he would be accepting the appropriation made by the judgment debtor under the award decree on the scheme of the Land Acquisition Act. This part of the reasoning in Prem Nath Kapur (supra) is, of course, also based on the reasoning that there is some inconsistency in Order 21 Rule 1 of the Code and the scheme of the Act. Prem Nath Kapur (supra) also indicates that when the decree itself specifies the amount payable under different heads (the decree has to do so under Section 26 of the Act) and amounts are deposited towards those different heads, the appropriation would be on the basis of the direction under the decree which must be taken to be one for crediting the various sums paid under particular heads. On the scheme of the Act, especially the wording of Section 34 and Section 28 of the Act it is not possible to say that the said approach made in Prem Nath Kapur (supra) is erroneous or is unreasonable or is not a line of approach that is not warranted. Therefore, when the judgment debtor State makes a deposit along with the calculation appropriating distinct sums towards various heads of compensation as awarded by the reference court or by the appellate court in the appellate decree, and the amount is received by the decree holder, the decree holder must be taken to be not entitled to seek an appropriation as if the judgment debtor has not made any intimation and that he is entitled to appropriate at his volition. Considering the scheme of compensation under the Act in the context of the specific nature of the items specifically referred to in Section 23 of the Act, we are of the view that the approach adopted in Prem Nath Kapur (supra) is justified. A reappropriation by seeking to reopen the satisfaction already rendered might result in interest being made payable even on that part of the principal amount that had already been deposited and

received by the decree holder and that would be in the realm of unjust enrichment.”

On reading of the aforesaid, it is clear that wherever the Judgment Debtor deposits the amount with specific stipulation that the particular amount is under a particular head and the landowners do not object to it while withdrawing, then they cannot subsequently object. However, from the reading of the order, it is not clear whether the Form-D was ever supplied to the petitioners or not.

In view of the aforesaid, the order under challenge is set aside.

Learned Executing Court is requested to re-decide the question in accordance with the judgment passed by the Hon'ble Supreme Court after returning a finding that whether Form-D was ever supplied to the petitioners or not and whether petitioners accepted the payment without any objection. Parties through their counsel are requested to appear before the Executing Court on 06.04.2018.

In view of the above, both the revision petitions are disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

21.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No