

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

**CR No.3507 of 2016 (O&M)
Date of decision:16.04.2018**

Gram Panchayat, village Guddha through its Panch ... Petitioner

Vs.

Randhir Singh and others ... Respondents

CR No.3508 of 2016 (O&M)

Gram Panchayat, village Guddha through its Panch ... Petitioner

Vs.

Gidawari Devi and others ... Respondents

CR No.3411 of 2016 (O&M)

Gram Panchayat, village Guddha through its Panch ... Petitioner

Vs.

Mangat alias Bhagat and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rakesh Nehra, Advocate
for the petitioner.

Mr. Sanjay Mittal, Advocate
for respondent No.1 (in CR No.3507 of 2016 and CR No.3411
of 2016)
for respondent No.7 (in CR No.3508 of 2016)

AMIT RAWAL J. (Oral)

This order of mine shall dispose of three Revision Petitions

bearing Nos.3507, 3508 and 3411 of 2016 filed at the instance of Gram Panchayat being petitioner.

Mr. Rakesh Nehra, learned counsel appearing on behalf of the petitioner submitted that land was acquired by the National Highway Authority belonging to Gram Panchayat for widening up National Highway No.71. In some portion of the land, private respondents were the tenants. The compensation in terms of provisions of National Highways Act, 1956 (hereinafter referred to as “1956 Act”) had been lying deposited with the competent authority. The law with regard to apportionment of share vis-a-vis owner and tenant is no longer *res integra*, for, owner was granted 3/4th share and tenant 1/4th share. However, vide impugned order, the trial Court has granted vice-versa, i.e., tenant 3/4th share and Gram Panchayat 1/4th share.

In support of his contention, relied upon the judgment of this Court rendered in **Sohan Singh (deceased) through his Lrs Vs. Manmohan Nath and others 2012(2) PLR 437** and un-reported judgment passed in **R.F.ANo.396 of 1994 titled as Balwant Singh Vs. Arjan and others decided on 27.04.2009.**

Per contra, Mr. Sanjay Mittal, learned counsel appearing on behalf of the respondent(s) submitted that distribution of compensation vis-a-vis tenant who had been in long and settled possession more than 30 years has been debated upon by the Hon'ble Supreme Court in **Union of India Vs. Ajit Singh 1997(3) PLR 877** and **Mangat Ram Vs. State of**

Haryana 1996(2) RRR 625, whereby, 60% share and 3/4th share had been given to the tenant, therefore, the order of the trial Court is perfectly legal and justified and urged this Court for dismissal of the revision petitions.

I have heard the learned counsel for the parties, appraised the paper book and of the view that it is a fit case where the trial Court is required to re-visit the matter, in view of the law laid down in the aforementioned judgments, for, concededly, it is yet to be proved on record whether the tenant had been in long and settled possession to claim 3/4th share or 60% . This aspect has not been pondered upon by the trial Court.

I do not deem it appropriate to further comment upon the merit and de-merit of the matter as valuable right has accrued in favour of both the parties for adjudication of the lis in an appropriate forum, i.e., the Executing Court. The order of the trial Court is hereby set aside and the matter is remitted back to the trial Court for deciding the same afresh with regard to apportionment of compensation in accordance with law preferably within a period of 4 months from the date of receipt of certified copy of this order.

Mr. Nehra has expressed apprehension that the tenant has moved the application before the trial Court for disbursement of compensation.

Till the aforementioned dispute is adjudicated, both the parties shall not be entitled to seek disbursement of compensation.

Revision petitions stand disposed of.

(AMIT RAWAL)
JUDGE

April 16, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No