

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3749 of 2018(O&M)
Date of Decision: 12.09.2018

Harwinder Singh

.....Petitioner

Versus

Gajja Singh @ Chhaja Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. M.S. Khaira, Sr. Advocate with
Mr. D.S. Randhawa, Advocate and
Ms. Kulwinder Kaur, Advocate
for the petitioner.

Mr. R.S. Sidhu, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J.

[1]. Plaintiff has preferred this revision petition against the order dated 10.04.2018 passed by Civil Judge (Junior Division), Samrala whereby application dated 27.02.2018 filed by the plaintiff for decreeing the suit qua respondents No.1 and 2 (who were defendants No.15 and 16 before the trial Court) on the basis of compromise was dismissed.

[2]. Plaintiff filed a suit for permanent injunction, restraining

defendants No.1 to 24 from dealing with or receiving any amount of acquisition of the land from defendant No.25. The suit qua defendants No.15 and 16 was dismissed for non-prosecution vide order dated 03.03.2016 along with other defendants. Other defendants were not the contesting defendants in the suit. At the subsequent stage, trial Court while noticing the fact that the suit was dismissed for non-prosecution qua defendants No.15 and 16, took cognizance on the compromise effected by the parties before the Civil Court.

[3]. Vide order dated 10.04.2017, statement of the plaintiff was recorded. Plaintiff stated that Manvir Singh, Taranvir Singh and Swaranvir Singh are the legal heirs of Gajja Singh (defendant No.15) and Harbans Kaur (defendant No.16). The aforesaid persons have compromised the matter with the petitioner vide compromise dated 13.02.2017. Copy of compromise was placed on record before the Civil Court as Ex.PY. The aforesaid persons executed general power of attorney in favour of Gurwinder Singh and the same was placed on record as Ex.PX besides placing on record copy of written compromise dated 13.02.2017 as Ex.PZ. The prayer was made for deciding the suit on the basis of compromise. Statement of Gurwinder Singh attorney of Manvir Singh, Taranvir Singh and Swaranvir Singh i.e. legal heirs of defendants No.15 and 16 was

also recorded to the effect that aforesaid persons have executed power of attorney dated 13.02.2017 in his favour. The order recorded by the trial Court on 10.04.2017 was to the following effect:-

“Present:Plaintiff in person.

Gurwinder Singh-attorney of Manvir Singh, Taranvir Singh, Swarnvir Singh, legal heir of defendant No.15 and 16 in person.

File taken up today on the application moved by plaintiff for recording the statements.

Plaintiff-Harwinder Singh suffered a separate statement in writing to the effect that Manvir Singh, Taranvir Singh, Swarnvir Singh who are only LRs of Gajja Singh-defendant no.15 and defendant no.16 Harbans Kaur. They compromised the matter with him vide compromise dated 13.02.2017. Copy of the same is Ex.PY. They executed the general power of attorney in favour of Gurwinder Singh. Copy of the same is Ex.PX and again a written compromise dated 13.02.2017 executed between them which is Ex.PZ, which is correct. The case be decided on the basis of compromise Ex.PY.

On the other hand, Gurwinder Singh-attorney of Manvir Singh. Taranvir Singh and Swarnvir Singh legal heir of defendant No.15 and 16 also suffered a separate statement in writing to the effect that Manvir Singh, Taranvir Singh and Swarnvir Singh executed a power of attorney dated 13.02.2017 in his favour which

is Ex.PX. They are only LRs of defendant No.15 and defendant No.16. They compromised with plaintiff. Copy of compromise dated 13.02.2017 is Ex.PZ. The case be decided on the basis of compromise Ex.PY. He tendered the self attested copy of Aadhar Card.

The statement of both the plaintiff and Gurwinder Singh-attorney of Manvir Singh, Taranvir Singh and Swaranvir Singh legal heir of defendant No.15 and 16 are taken on record.

Now to come up on 18.04.2017 i.e. date already fixed.

10.04.2017

Vishal Aggarwal

Stenographer-II

Prabha Prashar

CJJD/Samrala

(UID No.PB0500)”

[4]. Thereafter, an application was filed for crystalizing the rights of the plaintiff viz-a-viz defendants No.15 and 16 in the light of compromise dated 13.02.2017 as well as on the basis of statements dated 10.04.2017 recorded before the trial Court. Prayer was made for decreeing the suit.

[5]. Defendant No.26/Central Government through the Secretary Ministry of Road Transport and Highways, contested the application on the ground that *lis* is between the plaintiff and defendants No.15 and 16, therefore, defendant No.26 has no concern with the *lis*. As per revenue record, defendant No.15 is the owner of the land to the extent of 1/12th share and defendant

No.16 is owner to the extent of 1/36th share. Total share of defendants No.15 and 16 would come out to be 1/9th share and defendant No.26 has no objection, if the Court takes notice of mutual understanding between the parties. In a way, there was no opposition from the defendants.

[6]. The said application was dismissed by Civil Judge (Junior Division), Samrala vide impugned order dated 10.04.2018. Gurwinder Singh general power of attorney of LRs of defendants No.15 and 16 suffered a statement in writing to the effect that he has no objection if the application for crystalizing the rights of the plaintiff viz-a-viz defendants No.15 and 16 in the light of compromise dated 13.02.2017 is allowed. Trial Court noticed the fact that vide order dated 03.03.2016 passed by Additional Civil Judge (Senior Division), Samrala, the suit qua defendants No.3, 5 and 25 was dismissed in default for non-compliance. Thereafter, order dated 03.03.2016 was rectified vide order dated 11.04.2016 and it was clarified that suit qua defendants No.5 to 25 was dismissed in default. Trial Court further recorded a finding that even if, suit qua defendants is restored, LRs of defendants No.15 and 16 are impleaded and the statement of compromise is taken into consideration, still under Section 63 of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and

Resettlement Act, 2013, jurisdiction of the Civil Court is barred.

[7]. The suit was filed for permanent injunction, restraining defendants No.1 to 24 from dealing with and receiving any amount of acquisition of the land from defendant No.25. If there is no *lis* between the plaintiff and defendants on account of compromise as defendants No.15 and 16 were the only contesting defendants for whom the trial Court itself considered the statements of the parties in the context of compromise, allowing the parties to get their statements recorded amounts to restoration of the suit by necessary implication. Since the parties are not at issue, the only contesting defendants No.15 and 16 through their LRs have resolved the controversy and suit qua them along with other defendants was dismissed in default, therefore, the compromise between the plaintiff and LRs of defendants No.15 and 16 is required to be decided by the trial Court at the threshold of its implication viz-a-viz provisions of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. Section 63 of the aforesaid Act would bar the jurisdiction of the Civil Court in case of any dispute relating to the land acquisition. Once there is no dispute in view of compromise between the parties, the effect of such compromise would be seen by the trial Court viz-a-viz the aforesaid provision.

[8]. At this stage, it would be highly premature to comment upon the effect of restoration of the suit in the context of compromise and decision to be made by the trial Court on such premise and its ultimate effect on the land acquisition proceedings. In my considered opinion, at this stage, recording of statements by the Civil Court on 10.04.2017 in the context of compromise would necessarily dilute rigour of dismissal of suit in default qua defendants No.15 and 16. The suit stands restored by necessary implication with recording of statements of the parties to the *lis* in the context of compromise. I treat the suit qua defendants No.15 and 16 to have been restored.

[9]. At this stage, trial Court is directed to proceed further in the context of statements dated 10.04.2017 recorded by the parties in accordance with law. Fate of the decision of the civil suit would be tested by the concerned Courts in accordance with law. At this stage, no finding can be recorded in terms of bar of jurisdiction of the Civil Court under Section 63 of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, nor any issuance of injunction is involved as contesting parties to the original *lis* have compromised. At this stage, the Civil Court can proceed further in terms of statements of the parties dated 10.04.2017 in accordance with law.

[10]. With the aforesaid clarification, this revision petition is disposed of.

September 12, 2018

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No