

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

1. CR No.4484 of 2014 (O&M)
Date of decision : 23.01.2018

Nachhatar Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

2. CR No.4511 of 2014 (O&M)
Date of decision : 23.01.2018

Nachhatar Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

3. CR No.5588 of 2014 (O&M)
Date of decision : 23.01.2018

Nachhatar Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

4. CR No.5827 of 2014 (O&M)
Date of decision : 23.01.2018

Baljit Kaur and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Sumeet Mahajan, Sr. Advocate with
Mr. Surinder Garg, Advocate and
Mr. Amit Kohar, Advocate for the petitioners.

Mr. Saurabh Girdhar, AAG, Haryana.

ANIL KSHETARPAL, J.

By this order, CR Nos.4484, 4511, 5588 and 5827 of 2014 are being disposed of as the issue involved in all these cases is common.

Challenge is to the similar orders passed by the Executing Court dated 12.05.2014.

Learned Executing Court has entertained an application filed by the applicants. Hans Puri, Bhagirath, Ranvir Singh, Hans Raj, Lila Dhar, Umed Singh, Gurjant Singh, Surjeet Puri, Surender Puri and Jagtar Singh claiming that they are entitled to apportionment in the compensation awarded on account of compulsory acquisition of land.

Learned Executing Court has referred the cases to the Land Acquisition Collector to ascertain the specific shares of all the proprietors in *Shamlat Patti Phusa*.

I have heard the learned counsel for the petitioner as well as counsel for the State of Haryana at length. Learned counsel for the private respondents has not appeared at the time of hearing.

Learned counsel for the petitioner has submitted that

application(s) in the execution petition were not maintainable. He has submitted that under the Land Acquisition Act, 1894 (hereinafter to be referred as 'the Act of 1894'), anybody claiming apportionment of the compensation has to seek reference under Section 30 of the Act of 1894. He submits that in the present case, no reference under Section 30 of the Act of 1894 had been filed. He further submits that the learned Executing Court is to execute the orders and the Executing Court cannot go beyond the decree passed.

Learned counsel for the petitioner has drawn the attention of this Court to Annexure P-1, the order passed by the Court of Additional District Judge, Sirsa dated 04.09.2010. At the behest of Gram Panchayat, a reference under Section 30 of the Act of 1894 was referred to the Court and the learned Additional District Judge opined that the acquired land does not vests with the Gram Panchayat. It was also recorded that the ownership vests with the proprietors of the village.

On the other hand, learned counsel for the respondent-State has supported the judgment passed by the learned Additional District Judge.

For ready reference, Section 30 of the Land Acquisition Act, 1894 is extracted as under:-

“30 Dispute as to apportionment. *When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”*

A careful reading of Section 30 of the Act of 1894 would show

that any person interested in apportionment has to apply to the Collector who may refer such dispute to the decision of the Competent Court. In this case, as noticed earlier, the applicants did not move any application before the Collector seeking reference u/s 30 of the Act of 1894. The application was moved before the Executing Court. The jurisdiction of the Executing Court is very limited.

Learned counsel for the petitioner has relied upon various judgments passed by the Hon'ble Supreme Court to contend that when the Court derives jurisdiction on a reference made, the jurisdiction of the Court is limited to entertain an application for being added as a party. He has further submitted that in the present case, the applicants had not sought reference under Section 30 of the Land Acquisition Act, 1894 even when the reference under Section 18 of the Act of 1894 filed by the petitioners had been decided.

This Court cannot overlook the fact that while deciding the reference under Section 30 of the Act of 1894 filed by the Gram Panchayat, learned Additional District Judge had found that the property which have been acquired was recorded as “*Mushtarka Khewat Jumla Malkan Hasab Rasad Rakba Khewat*”. Such entries are made by the Revenue Authorities in accordance with Rule 16(ii) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949. Prima facie such entries prove that the land belongs to the proprietary body of the village.

Learned counsel for the petitioners has tried to submit that in fact the land which was subject matter of the compensation had fallen to the share of the petitioners in partition of the proprietary land. Be that as it may.

Since, this dispute has not been adjudicated upon by the Executing Court while passing the impugned order, therefore, this Court does not wish to enter into that arena.

Taking into consideration all aspects of the matter, this Court is of the view that the impugned order passed by the learned Executing Court is required to be set aside directing the Executing Court to proceed with the execution in accordance with the decree passed. However, learned Executing Court would be at liberty to adjudicate upon the share of the petitioners in the compensation already assessed. The petitioners would be at liberty to produce the evidence to prove that the land which has been acquired had fallen to their share only and other proprietors are not entitled to any apportionment. Since, counsel for the private respondents has not appeared at the time of hearing, learned Executing Court shall issue notice to all the applicants apprising them of their right to move application u/s 30 of the Act of 1894.

In view of the above, all the revision petitions are allowed.

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

23.01.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No