

**CR No.4636 of 2014 (O&M)**

**{1}**

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

**CR No.4636 of 2014 (O&M)**

**Date of decision:10.08.2018**

Haryana State Industrial & Infrastructure  
Development Corporation, Panchkula

... Petitioner

**Vs.**

Urmila and others

... Respondents

**CR No.4655 of 2014 (O&M)**

Haryana State Industrial & Infrastructure  
Development Corporation, Panchkula

... Petitioner

**Vs.**

Mahender Singh and others

... Respondents

**CR No.6351 of 2013 (O&M)**

Haryana State Industrial & Infrastructure  
Development Corporation, Panchkula

... Petitioner

**Vs.**

Inder Sain and others

... Respondents

**CR No.6359 of 2013 (O&M)**

Haryana State Industrial & Infrastructure  
Development Corporation, Panchkula

... Petitioner

**Vs.**

Subhash Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

**Present:-** Mr. Kamal Sehgal, Advocate  
for the petitioner.

Mr. Jagdeep Singh Rana, Advocate for  
Mr. Vinod S. Bhardwaj, Advocate  
for respondent No.1 in CR No.6351 of 2013 and  
for respondents No.1 to 6 in CR No.6359 of 2013.

**AMIT RAWAL J.**

**C.M.No.14096-CII of 2014 in CR No.4636 of 2014**

For the reasons stated in the application which is duly supported by an affidavit, delay of 151 days in filing the revision petition, is condoned.

C.M. stands disposed of.

**C.M.No.14128-CII of 2014 in CR No.4655 of 2014**

For the reasons stated in the application which is duly supported by an affidavit, delay of 152 days in filing the revision petition, is condoned.

C.M. stands disposed of.

**CR Nos.4636, 4655 of 2014, 6351 and 6359 of 2013**

The short point involved in the present revision petitions is as to whether co-owner, who has not sought a reference under Section 18 of the erstwhile Land Acquisition Act, 1894 (hereinafter referred to as “1894 Act”) can prefer an execution seeking enhancement of compensation or not.

The petitioner-Haryana State Industrial & Infrastructure Development Corporation (HSIIDC) has assailed the order of the Executing Court, whereby, the similar execution application filed by respondent No.1, has been allowed. The controversy in this regard has been set addressed by Hon'ble the Supreme Court in **Narendera and others Vs. State of Uttar**

**Pradesh and others 2017(4) RCR (Civil) 828 and by this Court in CR No.690 of 2015 titled as Pushpa Sharma Vs.State of Haryana and others decided on 03.05.2018.**

Mr. Kamal Sehgal, learned counsel appearing on behalf of the petitioner vehemently argued that impugned order is not sustainable as the certain facts are required to be proved *vis-a-vis* ownership, therefore, the respondents are required to avail the remedy under Section 18 of 1894 Act.

There is no dispute to the fact that enhanced rate of compensation has been judicially determined.

I am afraid the aforementioned argument is not sustainable in the eyes of law. It has now been set at rest by judgments, referred above, that execution application at the instance of a co-owner, even if not filed a reference under Section 18 of 1894 Act, is maintainable. For the sake of brevity, para 7 of the judgment rendered by Hon'ble the Supreme Court in Narender's case (*supra*) reads as under:-

*“7) The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in mind that those land owners who are agriculturist in most of the cases, and whose land is acquired for public purpose should get fair compensation. Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is*

*incorporated by the Legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not be made applicable and rendering substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell of their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons divested of their land is determined by the Land Acquisition Collector. Scheme further provides that his determination is subject to judicial scrutiny in the form of reference to the District Judge and appeal to the High Court etc. In order to ensure that the land owners are given proper compensation, the Act provides for 'fair compensation'. Once such a fair compensation is determined judicially, all land*

*owners whose land was taken away by the same Notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination by giving different treatment to the persons though identically situated. On technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them.”*

This is what has been the import of the order of the trial Court.

I do not find any illegality and perversity in the order under challenge which cannot be said to have been passed without jurisdiction.

No ground is made out for interference in the impugned order.

Resultantly, revision petitions are dismissed.

(AMIT RAWAL)  
JUDGE

**August 10, 2018**  
savita

## Whether Speaking/Reasoned

Yes/No

## Whether Reportable

Yes/No