

CR No.500 of 2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.500 of 2018

Date of Decision: 24.01.2018

Santosh Verma

... Petitioner

Versus

State of Haryana & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rajesh Sethi, Advocate, and
Mr. Arun Biriwal, Advocate, and
Mr. Karan Bathla, Advocate,
for the petitioner.

RAMENDRA JAIN, J.(Oral)

Through the instant revision petition, challenge has been laid to the impugned order dated 13.11.2017 (Annexure P-8) of the learned District & Sessions Judge, Rohtak, approving the enquiry report (Annexure P-7), whereby two Court officials namely Gagan Deep and Hawa Singh were exonerated of their guilt for not complying with the order dated 17.04.2004 passed by the learned Additional District Judge, Rohtak, in a matter under Section 30 of the Land acquisition Act(for short 'the Act').

In nutshell, land measuring 10 kanal 1 marla was acquired vide award No.6/R dated 28.10.2002 by the Government of Haryana for public purposes awarding compensation of ₹5,56,909/-. The Land Acquisition Collector deposited the amount aforesaid, before the Reference Court for disbursement of the same to the petitioner being lawful owner of the acquired land on the basis of revenue record.

However, respondent No.2 filed a reference under Section 30 of

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the Act before the Reference Court raising objection to the disbursement of compensation to petitioner.

Consequently, the Reference Court vide its order dated 17.04.2006, considering that much time may be consumed in deciding the real controversy of title and disbursement of proportionate compensation between the parties, ordered for converting the aforesaid amount into the shape of some FDR in Punjab National Bank, Model Town, Rohtak, with the observation that the same shall be disbursed after decision of the reference under Section 30 of the Act to the person, who shall finally be held entitled for the same.

However, the said order was not complied with by the Nazir. Consequently, the aforesaid amount of ₹5,56,909/- remained lying with the Court without earning any interest due to non-conversion of the same in some FDR as directed.

The Reference Court finally held the petitioner entitled for the entire compensation vide its judgment dated 23.12.2012 (Annexure P-2).

Thereafter, upon an application of the petitioner for disbursement of the compensation, when she was not paid any interest over it, on enquiry she came to know about the fact that the Court's staff acting negligently in defiance of the Court order dated 17.4.2006 (Annexure P-1), did not convert the aforesaid amount into some STDR, simultaneously committing contempt of the Court.

Consequently, the petitioner moved an application before the Reference Court for grant of interest to her over the aforesaid amount of ₹5,56,909/-, whereupon a fact finding inquiry was ordered to fix the

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responsibility of the erring officer for not converting the aforesaid amount in FDR as directed by the Reference Court, Rohtak, wherein Gagan Deep Singh, Nazir and Hawa Singh, Ahlmad, were found at fault for committing the aforesaid lapse and misconduct.

On submission of preliminary enquiry report to the learned Additional District & Sessions Judge, Rohtak, both the said officials were chargesheeted to face a regular departmental inquiry while appointing Sh. Hem Raj District Judge, Family Court, Rohtak, as an Enquiry Officer, who after conducting due enquiry exonerated both the aforesaid officials vide enquiry report (Annexure P-7)

Learned District & Sessions Judge, Rohtak, without any deliberations upon the enquiry report and application of mind, agreed with the office note dated 13.11.2017; without giving any reason or justification, whereby it was recommended that the record of the Land Acquisition case file No.100 of 2004 titled as Satnarain V. State together with the miscellaneous applications No.66 of 2012 and 34 of 2015 vide which the petitioner had prayed for grant of interest to her, be consigned to the record room without any order on the same.

Learned counsel for the petitioner referring to Jang Singh Vs. Brij Lal and another, AIR 1966 (Supreme Court) 1631, urged that the Reference Court headed by the Additional District Judge was required to pass a specific order upon application (Annexure P-4) of the petitioner for grant of interest to her on amount of ₹5,56,909/-. Learned District & Sessions Judge, Rohtak, has also illegally and wrongly agreed with the office report, which had recommended consignment of the application(Annexure P-4) of the

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petitioner along with the main Land Acquisition case to the record room without a decision. Therefore, the Reference Court as well as the District & Sessions Judge, Rohtak have grossly misconducted by not passing any order on the application of the petitioner (Annexure P-4).

Having given considerable thoughts to the submission made by learned counsel for the petitioner, I find that the instant petition deserves acceptance for the reasons to follow.

The relevant portion of the authority referred above is reproduced as under for ready reference:-

“There is no higher principle for the guidance of the Court than the one that no act of Courts should harm a litigant and it is the bounden duty of Courts to see that if a person is harmed by a mistake of the Court, he should be restored to the position he would have occupied but for that mistake. This is aptly summed up in the Maxim: 'Actus curiae neminem gravabit'”.

From the above dictum of the Hon'ble Supreme Court, it is evident that no one may be allowed to suffer by an act of the Court is not a rule confined to an erroneous act of the Court, rather the same embraces within its sweep all such acts as to which the Court may form an opinion in any legal proceedings that the Court would not have so acted had it been correctly apprised of the facts and the law.

More-so, Section 144 CPC envisages about the principle of restitution. This Section not only speaks of decree being varied, reversed or modified, but also includes an order on par with a decree. Scope of above provision is wide enough so as to include therein almost all kinds of variations, reversal, setting aside or modification of a decree or order. The

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word “restitution” in its etymological sense means restoring to a party on the modification, variation or reversal of a decree or order, what has been lost to him in execution of decree or order of the Court or in direct consequence of a decree or order. This is not the fountain source of restitution; it is rather a statutory recognition of a pre-existing rule of justice, equity and fair play. That is why it is often held that even away from Section 144 CPC, the Court has inherent jurisdiction to order restitution so as to do complete justice between the parties. In a way, in law the principle of restitution is used in three senses: (i) return or restoration of some specific thing to its rightful owner or status; (ii) compensation or reparation for the loss caused to another; (iii) compensation for benefits derived from a wrong done to another.

In the instant case, on deposit of compensation into the Court, the reference Court wide its order dated 17.04.2006 had ordered for converting the amount of compensation of ₹5,56,909/- into FDR in Punjab National Bank, Model Town, Rohtak so as to be disbursed after decision of the reference under Section 30 of the Land Acquisition Act to the person who shall finally be held entitled to it. Admittedly, aforesaid order was not complied with by the officials of the District Court, Rohtak. Consequently, enquiry was ordered to be conducted, in which two officials, namely, Gagan Deep Singh, Nazir and Hawa Singh, Ahlmad, were found guilty for violation or non-compliance of aforesaid order dated 17.04.2006 causing loss to the petitioner.

Therefore, for the fault of the officials of the District Court at Rohtak, the petitioner could not have been penalized and made to suffer for

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such a huge loss of interest, which she ought to have earned on the compensation amount of ₹5,56,909/-, over a long period of 9 years. According to the Bank calculations, the same comes to ₹6,60,900/-, in case, the dealing officials of the District Court, Rohtak, at the relevant time may not have acted negligently.

Learned District Judge did not act in a genuine and fair manner. He ought to have gone through the enquiry report so as to find out as to whether exoneration of the aforesaid guilty officials by the Enquiry Officer was legal and valid and by applying his mind must have found ways and means to compensate the petitioner. Learned District Judge instead of protecting the interest of the petitioner watched the interest of erring officials working under him. He simply relying upon the office note dated 13.11.2017, without giving any reasoning for accepting the same, ordered for consignment of the file causing loss of interest of a huge amount of ₹6,60,900/- to the petitioner.

The Enquiry Officer of the rank of District Judge, Family Court, has also committed jurisdictional error in exonerating the erring officials aforesaid, who patently had acted negligently and committed the contempt of Court by not complying with the directions given to them vide order dated 17.04.2006 to convert the compensation into some Fixed Deposit Receipt to save the loss of interest.

Since it is prima facie evident that the Enquiry Officer, Additional District Judge and the learned District & Sessions Judge, Rohtak, have not dealt with the matter fairly, the enquiry report (Annexure P-7) and order dated 13.10.2017 (Annexure P-8) are hereby set aside.

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The Reference Court is directed to recover the interest amount of ₹5,56,909/- from the erring officials at bank rate and make payment of the same to the petitioner in accordance with law.

This petition is disposed of without issuing notice to the respondents with a view to impart justice to the parties and to save the huge expenses, which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within six weeks from today.

24.01.2018
monika

(RAMENDRA JAIN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>