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

**Civil Revision No.5210 of 2018 (O&M)
Date of Decision: 18.12.2018**

**Secy. Dept of PWD B&R and Architecture, Govt. of Hry.
Sec-17, Chandigarh and another
.....Petitioners**

Vs

Hari Ram and others Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ravi Dutt Sharma, D.A.G., Haryana
for the petitioners.

Mr. J.S. Thind, Advocate
for the respondent No.1.

RAJ MOHAN SINGH, J.

[1]. Petitioners have challenged the order dated 10.01.2018 and 29.05.2018 passed by the Civil Judge (Jr. Divn.) Ellenabad, which were passed in the execution proceedings.

[2]. Plaintiffs/respondent No.1 filed a suit for mandatory injunction against the petitioners/defendants No.1 and 2 and other proforma defendants No.3 to 20 with the averment that the plaintiff and proforma defendants were owners of the land measuring 1 Kanal 3 Marlas situated opposite to Rest House and near to bus stand Ellenabad District Sirsa. Defendants have

no right in respect of aforesaid land as the same was never acquired by the State and no compensation was paid to the plaintiff. Defendant No.2 being department of defendant No.1 had constructed a metalled road in the year 1972 on the land in question without any notice to the plaintiff and other owners.

[3]. The suit was decreed by the Civil Judge (Jr. Divn.) Ellenabad vide judgment and decree dated 21.01.2013. The following prayers were granted by the trial Court:-

“(a) the defendants no.1 and 2 shall get conducted the demarcation, in the presence of all concerned, of the suit land comprised in Khewat No.733 Khatuni No.831 Sq. No.3, Killa No.18/1/2. Situated in village Dhani Jattan, Tehsil Ellenabad Distt. Sirsa to know and determine exactly the portion of suit land which is coming under the Sirsa- Ellenabad road.

(b) the defendants no.1 and 2 after determining the exact portion of the suit land coming under the Sirsa- Ellenabad road shall be compensation to the plaintiff and proforma-defendants as per their share.

(c) the compensation shall be determined as per the rates prevailing on the date of construction of the Sirsa- Ellenabad road on the disputed land. The same be done within four months from the date of this judgment.”

[4]. Plaintiff went in appeal before the lower Appellate Court as the suit was decreed and the compensation was to be awarded as per rates prevailing on the date of construction of the road on the disputed land. The lower Appellate Court vide

judgment and decree dated 30.04.2015 upheld the relief clauses (a) and (b) of the trial Court, however clause (c) was modified to the extent that the compensation if any shall be determined in accordance with the provision of Land Acquisition Act, 1894 or any other relevant law/instructions in force.

[5]. Execution was filed by the decree-holder, wherein order dated 10.01.2018 was passed by the Civil Judge (Jr. Divn.) Ellenabad issuing warrants of attachment of properties of judgment-debtors as per list and contempt notice was also issued to the Executive Engineer, Provincial Division No.II, PWD B&R Branch, Sirsa to show as to why contempt proceedings be not initiated against him for disobeying the order of the Court.

[6]. Thereafter the executing Court passed the order dated 29.05.2018 by observing that the judgment-debtors were required to first acquire the land and then calculate the amount of compensation as per provisions of Land Acquisition Act, 1894 or any other relevant law for the time being in force. The process of calculating the compensation directly without acquisition of the land was deprecated and the reply filed by the judgment-debtors to the application under Order 21 Rule 66 CPC was discarded and the application filed by the judgment-debtors for calculation of amount of compensation was

dismissed.

[7]. Both the parties have serious dispute with regard to the prevailing collector rate in the locality where the suit land is situated.

[8]. The collector rate from Panchmukhi Chowk to Bus Stand on Sirsa Road, for the year 2015-16 was Rs.27,000/- per square yards. The decree-holder claimed the aforesaid collector rate if the assessment is made without acquisition of the land, whereas judgment-debtors relied upon collector rate of village Dhani Jatan within municipal limits of Ellenabad where rate for *gair mumkin* land was Rs.1750/- per square yards for the year 2015-16. The difference in the collector rate is quite huge, therefore, efforts to have consensus on the calculation could not be materialized.

[9]. Both the parties have tried to convince the Court on the basis of prevailing market rate for the land adjoining to the land in question. No such evidence can be appreciated by this Court without proving the execution of documents/instances cited by the parties. As per the judgment passed by the lower Appellate Court which was upheld in Regular Second Appeal, clause (c) of the relief clause was modified and it was directed that the compensation be assessed in accordance with provisions of Land Acquisition Act or any other relevant law in force. The

scope of impugned order dated 29.05.2018 is also to the same effect and the executing Court has also discarded the plea of the judgment-debtors for direct assessment of the compensation without acquiring the land.

[10]. In view of above, I find no justification to interfere in the impugned orders passed by the executing Court. This revision petition is accordingly dismissed. Normal consequences to follow before the executing Court.

December 18, 2018

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No