

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

Date of Decision: 28.08.2018

1. CR No.5612 of 2018(O&M)

Devinder Singh

..... Petitioner

Versus

State of Haryana and another

.....Respondents

2. CR No.5613 of 2018(O&M)

Pal Ram

..... Petitioner

Versus

State of Haryana and another

.....Respondents

3. CR No.5614 of 2018(O&M)

Mukhtiar Singh

..... Petitioner

Versus

State of Haryana and another

.....Respondents

4. CR No.5615 of 2018(O&M)

Rajjo Devi

..... Petitioner

Versus

State of Haryana and another

.....Respondents

5. CR No.5616 of 2018(O&M)

Sampuran Singh

..... Petitioner

Versus

State of Haryana and another

.....Respondents

6. CR No.5617 of 2018(O&M)

Ram **Petitioner**

Versus

State of Haryana and another**Respondents**

7. CR No.5618 of 2018(O&M)

Gurbachan Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

8. CR No.5619 of 2018(O&M)

Kashmir Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

9. CR No.5620 of 2018(O&M)

Gurdial Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

10. CR No.5621 of 2018(O&M)

Avtar Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

11. CR No.5622 of 2018(O&M)

Narinder Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

12. CR No.5623 of 2018(O&M)

Resho Devi **Petitioner**

Versus

State of Haryana and another**Respondents**

13. CR No.5624 of 2018(O&M)

Hukam Chand **Petitioner**

Versus

State of Haryana and another**Respondents**

14. CR No.5625 of 2018(O&M)

Kesar Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

15. CR No.5626 of 2018(O&M)

Jaswinder Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

16. CR No.5627 of 2018(O&M)

Kuldeep Singh **Petitioner**

Versus

State of Haryana and another**Respondents**

17. CR No.5628 of 2018(O&M)

Pyari **Petitioner**

Versus

State of Haryana and another**Respondents**

18. CR No.5629 of 2018(O&M)

Sukhwinder Kaur **Petitioner**

Versus

State of Haryana and another**Respondents**

19. CR No.5630 of 2018(O&M)

Sadhu Ram **Petitioner**

Versus

State of Haryana and another**Respondents**

20. CR No.5631 of 2018(O&M)

Ajay **Petitioner**

Versus

State of Haryana and another**Respondents**

21. CR No.5632 of 2018(O&M)

Ronki Ram **Petitioner**

Versus

State of Haryana and another**Respondents**

22. CR No.5633 of 2018(O&M)

Mohinder Kaur **Petitioner**

Versus

State of Haryana and another**Respondents**

23. CR No.5634 of 2018(O&M)

Kaushalya **Petitioner**

Versus

State of Haryana and another**Respondents**

24. CR No.5635 of 2018(O&M)

Ramu

..... Petitioner

Versus

State of Haryana and another

.....Respondents

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

Present:Mr. Sanjiv Gupta, Advocate
for the petitioner(s).

RAJ MOHAN SINGH, J.

[1]. Vide this common order, bunch of 24 cases i.e. CR No.5612 of 2018 titled Devinder Singh Vs. State of Haryana and another, CR No.5613 of 2018 titled Pal Ram Vs. State of Haryana and another, CR No.5614 of 2018 titled Mukhtiar Singh Vs. State of Haryana and another, CR No.5615 of 2018 titled Rajjo Devi Vs. State of Haryana and another, CR No.5616 of 2018 titled Sampuran Singh Vs. State of Haryana and another, CR No.5617 of 2018 titled Ram Vs. State of Haryana and another, CR No.5618 of 2018 titled Gurbachan Singh Vs. State of Haryana and another, CR No.5619 of 2018 titled Kashmir Singh Vs. State of Haryana and another, CR No.5620 of 2018 titled Gurdial Singh Vs. State of Haryana and another, CR No.5621 of 2018 titled Avtar Singh Vs. State of Haryana and another, CR No.5622 of 2018 titled Narinder Singh Vs. State of Haryana and another, CR No.5623 of 2018 titled Resho Devi

Vs. State of Haryana and another, CR No.5624 of 2018 titled Hukam Chand Vs. State of Haryana and another, CR No.5625 of 2018 titled Kesar Singh Vs. State of Haryana and another, CR No.5626 of 2018 titled Jaswinder Singh Vs. State of Haryana and another, CR No.5627 of 2018 titled Kuldeep Singh Vs. State of Haryana and another, CR No.5628 of 2018 titled Pyari Vs. State of Haryana and another, CR No.5629 of 2018 titled Sukhwinder Kaur Vs. State of Haryana and another, CR No.5630 of 2018 titled Sadhu Ram Vs. State of Haryana and another, CR No.5631 of 2018 titled Ajay Vs. State of Haryana and another, CR No.5632 of 2018 titled Ronki Ram Vs. State of Haryana and another, CR No.5633 of 2018 titled Mohinder Kaur Vs. State of Haryana and another, CR No.5634 of 2018 titled Kaushalya Vs. State of Haryana and another and CR No.5635 of 2018 titled Ramu Vs. State of Haryana and another is being decided. Since common question of law and facts are involved in all the revision petitions, therefore, facts are being culled out from CR No.5612 of 2018.

[2]. Petitioner(s) in the aforesaid revision petitions have assailed the order dated 08.08.2018 passed by Additional District Judge, Panchkula, vide which order dated 11.05.2018 passed by the trial Court, directing the parties to maintain status quo was reversed and the application under Order 39 Rules 1

and 2 CPC for granting interim relief was dismissed.

[3]. Plaintiff/petitioner in CR No.5612 of 2018 filed a suit for declaration, challenging the notice bearing memo No.667 dated 29.03.2016, memo No.1157 dated 11.05.2016, memo No.5018 dated 07.11.2016, memo No.2076 dated 23.06.2017 and memo No.2377 dated 31.07.2017 issued by the defendants for refund of the alleged compensation being illegal, arbitrary, null and void. Mandatory decree was also sought to be granted, directing the defendants to release the saving bank account of the plaintiff with immediate effect which were seized on the basis of alleged recovery of compensation. Brief facts of the case are necessary to be highlighted.

[4]. Brief facts are that 224.28 acres of land in the revenue estate of three villages namely Chowki, Bir Ghaggar and Nada was acquired vide Award No.2 dated 30.07.2003. Out of the aforesaid land, 155.94 acres of shamlat land had 7 shareholders and payment was already made qua 4.5 shares i.e.100.25 acres and the remaining 2.5 share i.e. 55.69 acres of the acquired land was not apportioned by the Deputy Commissioner, Panchkula. The land holders of village Chowki filed references under Sections 18 and 30 of the Land Acquisition Act, 1894 and the same was referred to the concerned Court. Reference Court passed the Award dated

24.01.2014, wherein shares of *shamlat* land were apportioned and accordingly payments were ordered to be made as per share determined by the Reference Court. It was alleged that due to some inadvertent error, the excess payment was made in respect of 91.58 acres of land. On discovery of said fact, notices of recoveries of excess amount were issued to the persons/land owners who had received the excess payment. Some of the land owners ventured to file CWP No.18090 of 2015 titled Harmala Kaur Vs. State of Haryana. In the said civil writ petition, order dated 02.05.2017 was passed by the Division Bench of the High Court. The operative part of the order reads as under:-

“After hearing learned counsel for the parties, we find merit in the submissions made by learned counsel for the petitioners. It is admitted case of the parties that the amount was inadvertently paid in excess than the amount due to the petitioners by the Collector. Immediately when the error was notified to the petitioners, on verification of the facts, they deposited principal amount with the Collector. The dispute primarily remains on account of some small differences on the principal amount, which is not being disputed by the petitioners and the rate of interest payable on the amount. The petitioners are ready to pay interest for the period, the money remained with them. Section 28 of the Act does not come to rescue of the State to claim interest on any such payment, as it talks about payment of interest by the Collector in case the amount payable to the landowners is found more than what has been awarded by the Collector. The petitioners have fairly

submitted that they earned interest @ 7% per annum on the amount of compensation received. In our opinion, it would be fair in case the petitioners are directed to pay the amount of interest to the State for utilisation of money inadvertently paid to them from the date of payment of amount till it was refunded. The period is about 6½ months. Interest, if calculated @ 7% per annum on the amount, which was inadvertently paid in excess to the petitioners will come out to ` 30,11,000/- (rounded off). The amount of difference in principal amount and the interest shall be deposited by the petitioners with the Collector within four weeks from the date of receipt of the copy of the order.

Learned counsel for the petitioners raised an issue that on the amount of interest received on the enhanced compensation, the petitioners have already paid Income Tax and now that amount is being refunded to the State. As that issue is not under consideration before this Court, the petitioners may avail of their appropriate remedy for seeking refund of the Income Tax, if so advised.

The petitions stand disposed of.

Learned counsel for the petitioners further pointed out that though the petitioners had been fair enough to deposit the amount immediately after the error was pointed out. In fact, the amount was paid to number of landowners in excess, which was about ` 100 crores. The State has not made recovery of even singly penny from any of other landowners.

Learned counsel for the State to furnish details of the entire excess paid amount to the landowners along with their particulars and also as to whether recovery has been made from any other landowners or not and steps taken to recover the amount. The information be furnished within

four weeks. The names of the Collector and the officials, who calculated the amount be also furnished.

For the purpose, the matter be listed on 21.7.2017.

(Rajesh Bindal)
Judge

02.05.2017

(Harinder Singh Sidhu)
Judge”

[5]. Perusal of the aforesaid facts would show that there are allegations of connivance of the persons at different quarters. The matter is required to be dealt with in detail for which the subject matter of lis has to be preserved.

[6]. After filing of the suit by the plaintiff(s), the trial Court passed the order of status quo on the concession given by the learned Government Pleader on behalf of defendants No.1 and 2. Once the matter was under the monitoring of the High Court and order dated 02.05.2017 has already been passed by the Division Bench of the High Court, passing of order of status quo cannot be treated to be lawful.

[7]. Learned counsel for the petitioners vehemently submitted that in fact petitioners have not drawn any excess payment beyond their entitlements. They have been paid only their due amount as per award and further remedies are pending for enhancement of compensation. The subject matter

of the *lis* can be preserved by directing the petitioners to furnish surety for ultimate amount, if at all found due towards the petitioners. Learned counsel also submitted that the claim of the petitioners was genuine. Petitioners are ready to furnish security for the excess amount. Attachment and seal of their accounts be removed as there is no direct payment made in favour of the petitioners. Payment was made to the petitioners in accordance with the award and the same was deposited in the accounts. No final order has been passed after filing of the replies by the plaintiffs to the notices issued to them.

[8]. Lower Appellate Court while setting aside the order dated 11.05.2018 passed by the Additional Civil Judge (Senior Division), Panchkula has adverted to the incriminating facts where crores of rupees have been paid as excess amount to the claimants and some of the claimants have even returned the amount to the State. The matter has to be decided to the hilt. Notices of the recoveries have been issued to the plaintiffs and the proceedings are pending before the competent Court. The consideration of application under Order 39 Rules 1 and 2 CPC has to be made on the three golden principles i.e. existence of *prima facie* case, balance of convenience and suffering of irreparable loss in the event of not granting *ad interim* injunction in favour of the plaintiffs.

[9]. Admittedly, double payment has been paid to some of the claimants. Necessary segregation has to be made on the basis of evidence to be led by the parties at the relevant stage. Only show cause notice has been issued besides preserving the amount by way of attachment of the bank accounts. The existence of *prima facie* case and balance of convenience cannot be considered in favour of the plaintiffs keeping in view the attending facts and circumstances of the case. Causing of irreparable loss in many matters cannot be inferred in the event of non-grant of *ad interim* injunction.

[10]. In view of ratio laid down in **M/s Best Sellers Retail (India) Pvt. Ltd. Vs. M/s Aditya Birla Nuvo Ltd. (SC), 2012(6) SCC 792, Kishoresinh Ratansinh Jadeja Vs. Maruti Corporation and others, 2010(8) RCR 96** and **Dalpat Kumar and another Vs. Prahlad Singh and others, 1992(2) RRR 457,** the consideration on the basis of three principles of Order 39 Rules 1 and 2 CPC would give only conclusion that the plaintiffs/petitioners have no *prima facie* case, nor any balance of convenience is in favour of the plaintiffs and the plaintiffs would not suffer any irreparable loss or injury in case injunction is not granted to them. At the most, in the event of non-grant of any interim stay, the plaintiffs would suffer only a monetary loss which cannot be termed as irreparable loss or injury by any

stretch of imagination. Public money is involved in the background of the case(s), if the plea of the petitioners is found on the basis of any *prima facie* evidence on record, then the trial Court would be obligated to preserve the *lis* by passing any suitable order at that stage in accordance with law.

[11]. At this stage, there is no *prima facie* material to infer that the notices issued to the plaintiffs would give rise to satisfy the ingredients of Order 39 Rules 1 and 2 CPC in favour of the plaintiffs. These revision petitions are accordingly dismissed.

[12]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case(s).

August 28, 2018

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No