

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

**C.R. No.7252 of 2015 (O&M)
Date of Decision.30.11.2018**

Malkiat Singh

...Petitioner

Vs

Punjab State through Collector and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Himani Kapila, Advocate
for the petitioner.

Ms. Ambika Sood, DAG, Punjab.

Mr. Ashish Grover, Advocate
for respondent Nos.2 and 3.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the order dated 10.08.2015 (Annexure P-2) whereby the application dated 09.04.2014 for marking presence of the petitioner and tracing of the file of Reference No.44 of 2009 filed under Section 18 of the Land Acquisition Act, 1894, which was dismissed in default, has been dismissed.

Learned counsel appearing on behalf of the petitioner submitted that the court below while passing the impugned order relied upon the report of the Ahlmad, which is against the certified copies of the orders (Annexures P-6 and P-7) as the application for restoration was filed in case Reference No.44 of 2009. The application No.3 dated 09.04.2014 was filed in case RBT No.17.04.2015. In such circumstances, the impugned orders are not sustainable.

Ms. Ambika Sood, DAG, Punjab and Mr. Ashish Grover, learned counsel appearing for respondents No.2 and 3 submitted that one case filed by the petitioner along with Bhan Singh i.e. case No.180 of 2011 has already been decided on 17.07.2015 (Annexure P-3) and therefore, supported the impugned order as the petitioner has not been able to establish the existence of the other case.

I am afraid aforementioned argument of Mr. Grover is not sustainable as Annexure P-6 and P-7 are the certified copies of Reference made under Section 18 of the Land Acquisition Act and order dated 11.08.2011 dismissing the same in default. No doubt, there was a condition at the end of the order for declining the application for restoration moved in 2014 on account of non-availability of the file but should not have relied on the report of Ahlmad.

In view of the aforementioned observations, the impugned order is set aside being without jurisdiction and infirm and the application dated 09.04.2014 is allowed as prayed for.

The revision petition is allowed.

(AMIT RAWAL)
JUDGE

November 30, 2018
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No