

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

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**CM-14616-C-2018 in/and
CM-15895-C-2016 in/and
RSA-1223-2007 (O&M)
Date of Decision : 26.09.2018**

State of Punjab and others

..... Appellants

Versus

Chanchal Bala Ghai and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Ms. Amarjit Kaur Khurana, D.A.G., Punjab
for the appellants.

Mr. Sunil Chadha, Sr. Advocate
with Mr. Chetan Bansal, Advocate
for the respondents.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit filed by the respondents.

The case of the respondents was that they were owners of land measuring 29 kanals 0 marla comprised in Khasra Nos.340, 341, 580-581/342 (except 10 kanals 9 marlas already acquired) at Village Hazipur, Tehsil Phagwara, District Kapurthala. They had averred that originally one Jamadar Bhagwan Singh son of Gujjar Singh was allotted about 371 kanals of land and ultimately they had purchased the land in dispute from his successors-in-interest by two sale deeds of July, 1992. Out of that, the State of Punjab had acquired 10 kanals 9 marlas of land and had paid 80% of the compensation and 20% was due but suddenly on 08.01.2003 they received a notice that actually those 10 kanals 9 marlas

of land already vested in the Canal Department and rather compensation had been wrongly paid and they sought recovery of the compensation amount. It was further mentioned in the notice that in case the amount had not been deposited the case under Section 420 IPC would be lodged against the respondents. Interestingly, however, no claim was made for return of the remaining land.

The case of the State of Punjab was that the land in dispute was also acquired but inadvertently it was not mutated in the name of the State nor was the possession ever taken. In the circumstances, the onus lay upon the State to show that the land in dispute was actually acquired. From the evidence led before the courts below, both the courts came to the conclusion that the State had not been able to establish that when the land for Nangal Sub Minor was acquired the land in dispute was also acquired (as claimed for the Canal Rest House which was never built) and this is how the State is before this Court.

Before this Court, two applications for additional evidence have also been filed by the State and voluminous record have been placed but even that record does not indicate that the land in dispute was ever acquired. It must be kept in mind that after the acquisition in 1954 Jamadar Bhagwan Singh died in the year 1957 and the mutation of the land in dispute was sanctioned in favour of his legal representatives whose ownership was reflected right upto 1992 when the respondents purchased the land and after the purchase by the respondents, the names of the respondents have been shown in the revenue record as owners in

possession. Moreover, two of the contemporaneous documents which are now sought to be placed on record make interesting reading. The first one was a representation of Jamadar Bhagwan Singh dated 29.08.1954 in which he had claimed that by the acquisition of the land for Sirhind Minor, due to severance, some of the land turned from Chahi to Barani and he should be given some compensation for the fact that he had not been able to sow that land; and the second one was a noting dated 20.10.1954 whereby the Naib Tehsildar had recommended that money should be paid to him for that area which could not be sown. This document rather indicates that the entire land of Jamadar Bhagwan Singh was never acquired. The fact that 5 years later the mutation was entered and the fact of the remaining jamabandies also strengthen the conclusion that the land in dispute was never acquired. The explanation that the mutation was mistakenly not entered in the name of the State in 1954 or because of that error the possession was not taken is not based on any record. The onus rightly laid heavy on the appellant – State to justify the notice.

In the facts and circumstances of the case, I am not inclined to either allow the applications for additional evidence or further entertain this appeal. Consequently, both the applications as well as appeal are dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

September 26, 2018
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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No