

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

**Civil Writ Petition No.23178 of 2018
Decided on : 12.09.2018**

Joginder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Jatinder Singla, Advocate for the petitioner.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the order of the Reference Court dated 16.08.2018 (Annexure P-2), whereby while deciding the application under Section 64 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (for short '2013 Act') read with Section 3H of the National Highways Act, 1956 (for short '1956 Act'), the claim of compensation of Khasra No.255 (5-12) on the ground that the applicant was in exclusive possession and, therefore, other land owners were not entitled for compensation as per their shares, has been rejected.

Counsel for the petitioner has vehemently submitted that the order is not tenable, since the petitioner was in exclusive possession of the acquired land which was subject matter of question. The acquisition was done under the 1956 Act and on account of dispute having arisen the matter had been referred to the Principal Civil Court of original jurisdiction, since the interest of the private respondents was also involved, as the petitioner

was seeking the claim to the compensation exclusively.

The Additional District Judge, Sangrur after framing the issues regarding the entitlement of the parties to the compensation as to what extent came to the conclusion that there was no private partition on the record and, therefore, the argument that the petitioner is only entitled to the compensation was not accepted. It was held that all the co-sharers were recorded to be joint owners as per their shares and the Khewat was still in joint possession and possession of one co-sharer was deemed to be possession of others and would continue till partition is effected. Reliance was placed upon the judgment passed in '**Inder Singh Vs. Punjab State**', 1992 (1) RRR 19 and '**Dhoom Singh and another Vs. Ram Kumar and another**', 1988 RRR (1) 333 that the title of the land is to be seen and not possession.

The said view has been followed in view of the Full Bench judgment of this Court in '**Bhartu Vs. Ram Sarup**', 1981 PLJ 204 and by the Division Bench of this Court in '**Bachan Singh Vs. Swaran Singh**', 2000(3) PLR 416, while dealing with the issue of injunction also.

There being no dispute qua possession as the same was still joint and being enjoyed by all the co-sharers in a husband like manner. Nothing could be pointed out that the petitioner has raised any construction on the acquired portion whereby it could have been brought to the notice of the Reference Court that he has been in exclusive possession and that part was known to the other co-sharers.

Resultantly, there is no scope for interference in the well

reasoned order passed by the Reference Court and the writ petition is,
accordingly, dismissed in limine.

SEPTEMBER 12, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>