

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

**CWP No.8999 of 2018
Date of Decision: 30.04.2018**

Satpal Singh and others

...Petitioners.

Versus

Union of India and others

...Respondents

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

Present: Mr.Hardip Singh, Advocate, for the petitioners.

Mr.Sheery K.Singla, Advocate for the caveator

G.S. SANDHAWALIA, J. (ORAL)

The challenge in the writ petition is to the order dated 5.12.2017 (Annexure-P-8) passed by the Principal Civil Court of original jurisdiction namely Addl. District Judge, Patiala who has held that the compensation amount should be paid to the objectors and other beneficiaries/co-sharers in accordance with their respective share in the joint land.

The land was acquired by the Government vide notification No.1/Spl./NH/71 dated 7.11.2014 for the purpose of building (widening/ Four Laning etc) maintenance, management and operation of National Highway No.71 (52) on the stretch of road from Km.181.805 to 238.695 Km (Sangrur to Punjab/ Haryana Border Section) in District Patiala and Sangrur in the State of Punjab.

The petitioners preferred a reference Section 3H(4) of the National Highway Act, 1956, under which the acquisition has been done

that a dispute arises as regards to the absolute ownership and therefore, payment may be made and compensation be released to them. The claim was objected to by respondents No.2, 11 and 21 before the Reference Court on the ground that all the co-sharers were entitled to get their compensation proportionate to the share as entered in the revenue record. It was averred that no partition had taken place of the entire Khewat No.134/126 as per jamabandi for the year 2013-2014 of village Jogewala Tehsil Patran either orally or mutually. The petitioners examined themselves and as many as three witnesses were examined and during cross examination it came to light that the entire land was jointly owned by co-sharers and no partition had taken place.

It is also to be noticed that the petitioner No.1 Satpal himself filed an application before the Assistant Collector First Class for partition of the land and, therefore, it is established that the land in question is joint and has never been partitioned. Resultantly, keeping in view the principle that all the co-sharers have equal right in the land and reliance had been placed on the judgements in ***“Rajinder Singh Vs. Lakha Singh, 1966 PLR 97, Dhoopm Singh and another vs. Ram Kumar and another, 1988 (1) RRR 333, Inder Singh Vs. Punjab State, 1992 (1) RRR 19, Vinay Kumar and others Vs. Parshotam Dass and others, 1992 (1) RRR 247 and Parwati vs. State of Haryana 2009 (5) RCR (C) 572.*** The reference petition has then been dismissed.

The only argument which counsel for the appellant raised was that partition proceeding as such had been filed which has already been noticed above. The perusal of the partition applications filed by Satpal would also go to show that the same was instituted on 5.02.2015

(Annexure P-9) after the award has been passed on 7.11.2014 (Annexure P-1). Before the revenue authorities, the stand has been projected that since the matter is pending before the Addl. District Judge, Patiala, therefore, the case be adjourned sine die .

Once the land continued to remain joint at the time of acquisition, the findings which have been recorded that all the co-owners are entitled for their respective shares can not be faulted in any manner.

Resultantly, on merits, petition is accordingly is dismissed in limine.

30.04.2018
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No