

115+208

**CM-22517-18-CII of 2018
CM-25591-92-CII of 2016 &
RA-CR-313-CII-2016 in
CR No.4899 of 2012**

NANDA AND ORS. VS GRAM PANCHAYAT NAINWAL AND ANR.

Present: Mr. Neeraj Gupta, Advocate
for the applicant/respondent No.1.

Mr. Ram Avtar Yadav, Advocate
for the non-applicants/petitioners.

RAJ MOHAN SINGH, J.

[1]. The present review application has been preferred by the Gram Panchayat, Nainwal i.e. respondent No.1 in CR No.4899 of 2012 against the order dated 13.10.2015 passed by the High Court vide which the aforesaid revision petition along with other five connected revision petitions was decided vide the common order.

[2]. Applicant-Gram Panchayat was respondent No.1 in all the aforesaid revision petitions. Applicant-review petitioner alleged that in the land acquisition proceedings award was passed on 20.02.1986. Some of the proprietors of the village filed a suit under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 before the Assistant Collector Ist Grade claiming title on the plea that only 25% of the total area of the village was capable of vesting in Panchayat Deh and the remaining 75% of the area was belonging to the proprietors.

Vide order dated 03.03.1987, the suit was partly decreed declaring that 811 *bighas* 12 *biswas* out of total land of *Shamlat Deh* measuring 1251 *bighas* 4 *biswas* belonged to the proprietors. Mutation No.305 dated 18.11.1987 was entered on the basis of order dated 03.03.1987. The land was again mutated in favour of Gram Panchayat by virtue of amendment Act No.9 of 1992.

[3]. Gram Panchayat also filed revision against the order dated 03.03.1987 passed by the Assistant Collector, Ist Grade before the Divisional Commissioner, Gurugram. The revision petition was accepted vide order dated 23.07.1992 and the order dated 03.03.1987 passed by the Assistant Collector Ist Grade was set aside.

[4]. Later CWP No.15619 of 1992 was filed against the said order which was disposed of vide order dated 13.03.2003 by the Full Bench of this Court in terms of case titled '**Jai Singh etc. vs. State of Haryana and others**'. Thereafter mutation No.515 dated 25.12.2004 was sanctioned in favour of Gram Panchayat, but the said mutation was cancelled on 07.10.2011 after review conducted by Settlement Officer-cum-DRO vide order dated 03.10.2011. Mutation No.543 dated 11.04.2005 was sanctioned in favour of new proprietors of *Shamlat Deh* on the basis of High Court order, but the same was cancelled on 07.10.2011 by the

order of Assistant Collector 2nd Grade, Gurugram. The consolidation proceedings were notified on 16.09.2009 and mutation No.1090 dated 27.08.2011 was entered in favour of Gram Panchayat from *Shamlat Deh* in compliance of the order dated 23.07.1992 passed by the Divisional Commissioner, Gurugram.

[5]. Some of the subsequent purchasers filed CWP No.2930 of 2012 in the High Court against the order dated 04.08.2011 passed by the Commissioner, Gurugram Division, Gurugram as well as against mutation No.1090 dated 27.08.2011, whereby mutation was sanctioned and the name of *Shamlat Deh* was changed to *Panchayat Deh*. The said petition was dismissed vide order dated 13.08.2013 on the ground that the order dated 23.07.1992 passed by the Commissioner Gurugram Division, Gurugram was never set aside and the land had vested in the Gram Panchayat. Against the aforesaid order dated 13.08.2013, Petitioner i.e. Zenith Realtech Pvt. Ltd. filed SLP (Civil) No.929 of 2014, which was ordered to be dismissed as withdrawn by the Hon'ble Apex Court vide order dated 27.01.2014.

[6]. In the acquisition proceedings, the proprietors claimed enhanced compensation on the basis of order dated 03.03.1987 and sought reference under Section 18 of the Land Acquisition

Act. The reference Court vide order dated 22.10.1993 held that the market value of the acquired land at the time of acquisition was Rs.50,000/- per acre. The owners of the land were held entitled to solatium @ 30% of the market value on the enhanced amount of compensation and were also entitled for additional compensation @ 12% per annum on the enhanced market price and interest @ 9% per annum from the date of taking possession till the expiry of one year thereafter and for the period subsequent to one year, @ 15% per annum till final payment. It was also observed that the dispute regarding ownership of the land was pending before the High Court and, therefore, ownership of the land was kept open and the compensation was ordered to be paid to the rightful claimant after decision by the High Court.

[7]. Thereafter execution was filed by the petitioners Nanda and another in which objections were filed by the applicant-Gram Panchayat. The executing Court held that the objections of the applicant were worth acceptance on the basis of past litigation between the parties. It was observed that the Gram Panchayat was recorded as owner of the suit property, therefore, Gram Panchayat was held entitled to file its own execution petition to get the fruits of the award vide order dated 10.03.2012.

[8]. Against the aforesaid, the petitioners filed CR No.4899 of 2012 in the High Court. The High Court while deciding the aforesaid revision petition along with six other connected cases passed the following order in para Nos.2 and 3 of its order:-

“2. The revisions are at the instance of the decree-holders who have secured the compensation assessed in a reference for land acquisition. At the stage of execution, an objection was raised by a third party Gram Panchayat that the property has been entered as belonging to it and, therefore, the amounts shall not be permitted to be withdrawn to the decreer-holders. An adjudication of ownership is the only business of the reference court under Section 30 of the Land Acquisition Act and there can be no other forum which can entertain such a plea at the instance of a third party. The procedure under Order 21 Rule 97 of the Code of Civil Procedure cannot be applied in the executing court which enforces the order determining the issue of apportionment under Section 30 of the Land Acquisition Act. This issue has been settled by this Court in Satpal Singh Versus Subhash Chander 2014 (1) PLR 800 wherein it has been held that the executing court shall stay within the confines to execute the award against the judgment debtor for a money which is already assessed by a court and there can be no objection by a third party at the execution stage for the apportionment in the manner assessed by the reference court.

3. The executing court was wholly unjustified in allowing for a liberty to be given to a third party objector to prove at a later stage that it is the owner of the property. The liberty granted is untenable in law and is set aside. All

the revisions are allowed.”

[9]. Perusal of the aforesaid order would show that the applicant was treated to be the 3rd party . The adjudication of the ownership was held to be the business of reference Court under Section 30 of the Land Acquisition Act and it was further held that there is no other better forum which can entertain such a plea at the instance of 3rd party. The order under Order 21 Rule 97 CPC was held to be not applicable.

[10]. Learned counsel for the applicant submitted that the Gram Panchayat was very much party to the revision petition as well as in the proceedings before the Courts below at different times. Learned counsel made stress upon the order dated 23.07.1992 passed by the Divisional Commissioner, Gurugram which had attained finality and the Gram Panchayat was held to be owner of the land in question. The said order was even affirmed in CWP No.2930 of 2012 which was dismissed by the Division Bench of this Court on 13.08.2013. SLP filed against the said order was withdrawn vide order dated 27.01.2014.

[11]. Learned counsel further submitted that the order under review was not in the context of inter party objections, rather objections filed by the Gram Panchayat/respondent No.3 (in execution) were legally treated to be 3rd party objections, thereby treating the same under Order 21 Rule 97 CPC and

accordingly dismissed by the learned Single Judge. The learned Single Judge in the order dated 13.10.2015 has also observed that the executing Court was wholly unjustified in allowing for an opportunity to be given to the 3rd party objector to prove at a later stage its ownership over the property. Such liberty was held to be untenable in law and was set aside.

[12]. I have considered the submissions made by learned counsel for the parties.

[13]. Perusal of the record would show that in connected five cases review applications were filed and the same were dismissed by the Co-ordinate Bench on 11.08.2017 by way of passing the following order:-

“Applicants seek review of the order dated 13.10.2015 (Annexure A-1) passed by this Court and also condonation of delay of 390 days in filing the review application.

After hearing the learned counsel for the applicants, neither any case for reviewing the order dated 13.10.2015 has been made out nor any explanation has been given for the inordinate delay of 390 days in filing the review application.

Applicants are also not interested in pursuing the review application because the earlier order dated 18.04.2017 has not been complied with. Since no patent illegality or mistake apparent on record has been pointed out in the order dated 13.10.2015 passed by this Court, no case for review has been made out.

Dismissed.

A photocopy of this order be placed on the files of other connected cases.”

[14]. The present review application i.e. RA No.313-CII of 2016 has been filed in revision petition i.e. 4899 of 2012. In the present review application, the Co-ordinate Bench while issuing notice of the application passed the following order:-

“Learned counsel for the applicant places reliance on a Division Bench order dated 13.08.2013, passed by this Court in CWP No.2930 of 2012 (Annexure A-2) to contend, inter alia, that once the ownership of the Gram Panchayat has gone undisputed on record, the order dated 13.10.2015 passed by this Court deserves to be recalled.

Notice of the application to the counsel opposite.

Shri Ram Avtar Yadav, learned counsel for the non-applicant(s) accepts notice and seeks time to file reply.

On his request, adjourned to 04.12.2017.

sd/-

**(RAMESHWAR SINGH MALIK)
JUDGE”**

[15]. Thereafter applications were filed for recalling of order dated 11.08.2017 passed in the connected review applications. On 04.10.2017, the applications for recalling of order dated 11.08.2017 were dismissed by the Co-ordinate Bench. The same reads under:-

“Applicants seek recalling of the order dated 11.8.2017 passed by this Court, whereby review applications moved on behalf of the applicants were dismissed.

*After hearing learned counsel for the applicants,
no case for recalling is made out.*

Dismissed.

*A copy of this order be placed on the files of
connected cases.*

Sd/-

**(RAMESHWAR SINGH MALIK)
JUDGE"**

[16]. In view of aforesaid technical flaw, no indulgence can be granted in this review application. The present review application is accordingly dismissed. The order dated 13.10.2015 was passed by the High Court by presuming the applicant-Gram Panchayat to be a third party objector. The executing Court shall take into consideration the material on record to find out the real owner of the acquired land and would disburse the compensation in accordance with law.

[17]. Since the review application has been dismissed on merits, therefore, there is no need to adjudicate upon the application for condonation of delay and all other applications.

October 17, 2018

**(RAJ MOHAN SINGH)
JUDGE**

Atik

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