

CR-14391-2018 (O&M)

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

CR-14391-2018 (O&M)

Date of decision : 21.12.2018

Haryana Urban Development Authority (now Haryana
Saheri Vikas Pradhikaran) and another

... Petitioners

Versus

Mam Chand and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Arvind Seth, Advocate for the petitioners.

AMIT RAWAL, J.

The present revision petition is directed against the impugned order dated 14.09.2018, whereby the trial Court had entertained the application of the respondents, holding them to be entitled to the compensation as per their shares with other co-sharers.

Learned counsel for the petitioner submitted that the respondents had not filed any reference under Section 18 or the application under Section 28-A of the Land Acquisition Act, therefore, they are not entitled to received any compensation, thus, the Court below ought not to have allowed the application by applying the judgment referred to in impugned order.

I am afraid the aforementioned argument is not sustainable, for, concededly, Brij Lal and other co-sharers had filed the reference under the Land Acquisition Act, whereas the respondents are the legal heirs of Sita Devi, co-sharer. However, in A. Viswanatha Pillai Vs. Special Tehsildar for Land Acquisition 1991(4) SCC 17, the question that came to be debated/pondered upon was in respect of status of a co-sharer/co-owner/co-parcener, wherein the Hon'ble Supreme Court after relying upon the various

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other judgments, in paragraph 2, held as under:-

“.....When one of the co-owner or coparceners made a statement in his reference application that himself and his brothers are dissatisfied with the award made by the Collector and that they are entitled to higher compensation, it would be clear that he was making a request, though not expressly stated so but by necessary implication that he was acting on his behalf and on behalf of his other co-owners or coparceners and was seeking a reference on behalf of other co-owners as well. What was acquired was their totality of right, title and interest in the acquired property and when the reference was made in respect thereof under section 18 they are equally entitled to receive compensation pro-rata as per their shares. The courts below committed manifest error in refusing to pass an award and payment thereof to the appellants merely on the ground that there was no mention in this regard in the reference application or two of them sought reference in respect of two awards and the last one made no attempt in their behalf. The claimants are entitled to payment of the enhanced award by the Civil Court pro-rata of their 1/4 share each with 15 per cent solatium and 4 per cent interest as awarded by the Civil Court. The appeals are accordingly allowed with costs of this Court.”

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned order, under challenge, much less, no ground is made out for interference. Accordingly, the present revision petition is dismissed.

21.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**