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

CR-2544-2016 (O&M)

Date of decision : 16.01.2019

Chander Singh (deceased) through LRs

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Anurag Jain, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

The short point involved in the present revision petition is whether the impugned order disposing of the execution application of the petitioner by relying upon the calculations submitted by HUDA, is sustainable in the eyes of law or not.

Learned counsel for the petitioners submitted that the amount of compensation awarded by this Court in Regular First Appeal was ₹140.50/- per sq. yd. upto 500 sq. yds. and ₹125/- per sq. yd. beyond 500 sq. yds., and LPA Bench confined it to ₹235 per sq. yds. In this regard, calculations submitted, but HUDA did not include the amount with regard to the interest as well, as no payment as per the RFA Court, was paid and calculated the interest only from the date of the order of LPA Bench. The reasoning assigned for negating the statement is bereft of explanation, therefore, there is illegality and perversity.

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I have heard learned counsel for the petitioner and appraised the paper book and of the view that there is force and merit in the submissions of Mr. Anurag Jain.

It would be apt to reproduce the para 4 of the impugned order, which reads as under:-

"4. As per column No.23 of the revised statement, less amount of ₹15,73,617/- deposited on 17.3.2008 has been shown and in column No.26 balance of ₹15,55,388/- has been shown. However, in the statement furnished by JD-HUDA, the amount of ₹15,73,617/- has been shown to be paid on 17.3.2008 and thereafter from the perusal of the statement submitted by HUDA-JD No.2, it reveals that JD-HUDA has shown each and every figure correctly and the statement furnished by the decree holders seems to be on exaggerated side as in column No.23, once they are showing the less amount deposited on 17.3.2008 is ₹15,73,617/- and in column No.26 they are again showing the balance amount of ₹15,55,388/- which itself falsify their stand. I have also given deep consideration to the statements furnished by JD-HUDA which seems to be correct one as they have counted the interest for days also and it seems that decree holders have filed this execution petition showing false amount to be recovered. Thus the JDs are liable to pay a sum of ₹7,37,633/- only which they have shown in the calculation sheet. Therefore, the execution petition is disposed of accordingly and the JDs are directed to pay a sum of ₹7,37,633/- to the decree holders within one month from today. File be consigned to the record room after due compliance."

The reasoning assigned is bereft of any explanation, particularly the fact that this Court in Regular First Appeal, on 23.09.1999, had enhanced the amount as ₹140.50/- per sq. yd. upto 500 sq. yds. and

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₹125/- per sq. yd. beyond 500 sq. yds., whereas LPA Bench fixed the same @ ₹235/- per sq. yd, w.e.f. 11.01.2006. All these facts have not been taken into consideration and the impugned order is silent to that effect. Even the statement of HUDA has not been referred to in extenso to form an opinion, whether the fact was disclosed that they had paid the amount after decision rendered by RFA Court. All these factors need to be re-examined/revisited. Resultantly, the impugned order, under challenge, is set aside. The execution application is ordered to be restored to its original number. The trial Court shall decide the application afresh and shall determine the calculations submitted by both the parties by noticing all the dates and events regarding the date of award of the Collector and enhancement by the RFA Court as well as LPA Bench including the interest factor.

The parties or through their counsels are directed to appear before the trial Court/Executing Court on 08.02.2019.

With the aforesaid observations, the present revision petition is allowed.

16.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**