

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

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RFA-351-2019

Date of decision: 11.02.2019

Heera Lal & others

....Appellants

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Sumeet Goel, Advocate, for the appellants.

G.S. SANDHAWALIA, J. (Oral)

The award dated 19.12.2018 of the Reference Court, Faridabad, passed under Sections 30 & 18 of the Land Acquisition Act, 1894, is under challenge by the joint owners of the land.

The dispute pertains to 12 kanals 6 marlas of land, situated in the revenue estate of Village Budhena Tehsil & District Faridabad. The notification in question was published on 14.08.2008 and eventually the award was passed on 27.08.2010 by the Land Acquisition Collector. The Reference Court, while deciding the two reference petitions, filed by the appellants and by the private-respondents, namely, Kanhiya Lal-respondent No.9 and others, came to the conclusion that on the date of the Section 4 notification, the land was joint and the partition proceedings were only initiated on 19.06.2011. It had also been recorded that the appellants-Heera Lal and his group had already received their share of compensation. Accordingly, it was held that partition proceedings which were initiated after the passing of the award dated 27.08.2010 would have no bearing, as such. It was also noticed that the appellants never put in appearance before the Court, to substantiate their exclusive claim over the compensation amount and therefore, an adverse inference was drawn against them.

Counsel for the appellants has vehemently submitted that there

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was a documentary evidence, as such, on record which has not been discussed in proper detail.

The said argument is without any basis. Rather, a perusal of the judgment passed by the Reference Court would go on to show that the evidence of the appellants was closed by the counsel on 28.08.2015 and they had only tendered certified copies of the judgment, mutation and decision of the revenue authorities etc. Kanhiya Lal and others examined 2 witnesses and they also tendered into evidence their documents. Thereafter, application was filed by the appellants for leading additional evidence, which was also allowed and one more document bearing sale deed dated 07.02.2018 was also brought on record. It is, thus, apparent that sufficient opportunity, as such, was given to the appellants to put in appearance and substantiate their exclusive claim. By filing the partition petition, the appellants admit that the land was joint and therefore, the subsequent order dated 19.06.2013, passed by the revenue authorities, would be of no help to the appellants. The findings which have been recorded, as such, that the appellants and Kanhiya Lal were joint owners in possession of the acquired and were entitled for their respective shares as recorded in the revenue record or on the basis of the sale deeds at the time of the notification published under Section 4 of the Act, is well justified, in the facts and circumstances.

Resultantly, finding no merit in the present appeal, the same is dismissed in limine.

11.02.2019

Sailesh

(G.S. SANDHAWALIA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No