

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

**CR No.4090 of 2016(O&M)
Date of Decision: 27.08.2019**

State of Haryana and others

.....Petitioners

Versus

Ajmer Singh and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Vishal Kashyap, AAG, Haryana.

Mr. R.S. Dhull, Advocate for
Mr. Sandeep Goyat, Advocate
for the respondents.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 20.04.2015 passed by Additional Civil Judge (Senior Division)-cum-Executing Court, Hisar, vide which the execution petition was allowed and the judgment debtors were directed to acquire the land in question as per provision of Land Acquisition Act and thereafter to determine the compensation to be paid to the decree holders as per procedure prescribed under the Land Acquisition Act. Judgment debtors were also held liable to pay interest to the decree holders and were further

directed to file certificate on record that the amount of interest has been recovered personally from judgment debtor No.2.

[2]. Perusal of the record would show that plaintiffs/respondents filed a civil suit claiming that they are owners in possession of 50 kanals, 6 marlas of land as shown in the headnote of the plaint as per *jamabandi* for the year 2001-02. Petitioner No.2 had constructed a link road to join village Mangali with Hisar-Tosham road on land measuring 5 kanals 4 marlas out of the aforesaid land without the consent of the plaintiffs and without acquiring the same under the provisions of Land Acquisition Act. On demarcation, the plaintiffs came to know that their land measuring 5 kanals 4 marlas has gone in the constructed road for which they were not paid the compensation after due acquisition of land. The suit was decreed by the trial Court vide judgment and decree dated 07.05.2008.

[3]. Feeling aggrieved against the judgment and decree of the trial Court, plaintiffs preferred civil appeal before the Lower Appellate Court. Lower Appellate Court vide judgment and decree dated 07.09.2011, modified the judgment and decree of the trial Court and suit was decreed with costs to the effect that the plaintiffs are entitled to compensation in respect of 5 kanals 4 marlas of land as shown in the headnote of the plaint. Since

considerable time has already elapsed and no compensation has been paid by the petitioners, therefore, it was directed that the compensation shall be paid to the plaintiffs after assessing the same under the provisions of Land Acquisition Act along with interest and the claim of the plaintiffs shall be finalized within three months from the date of passing of the judgment, failing which, future interest shall be recovered personally from defendant No.2/respondent No.2.

[4]. Notice of motion was issued on 28.07.2016 and operation of the impugned order was stayed. Thereafter, the case was adjourned on number of times for one reason or the other.

[5]. Vide order dated 15.11.2018, it was observed by this Court that the plaintiffs were held entitled for compensation after assessment under the provision of Land Acquisition Act. The process of acquisition had not been initiated by the judgment debtors/petitioners in respect of land measuring 5 kanals 4 marlas at any point of time. There cannot be any assessment without acquisition of land. Learned State counsel sought time to explain the manner in which the amount of compensation was calculated on the basis of acquisition of adjoining land.

[6]. Despite the aforesaid order dated 15.11.2018 passed by this Court, the mode of assessment of compensation in

favour of the plaintiffs/respondents has not come forth. In the absence of acquisition of land and passing of lawful award for the acquired land, there cannot be any assessment of compensation of land on the basis of acquisition of adjoining land, particularly in view of the fact that the petitioners have not furnished that the compensation regarding adjoining land was finally determined by the Courts in hierarchy till date. In the event of relying upon compensation for the adjoining land without ascertaining further proceedings in terms of reference under Section 18 of the Land Acquisition Act, filing of RFA in the High Court and SLP, if any, in the Hon'ble Apex Court for enhancement, no such reliance can be placed solely on the basis of compensation awarded for the adjoining land. In any such eventuality, the plaintiffs/respondents would loose right of filing reference, right of filing first appeal before the High Court and further SLP in the Hon'ble Supreme Court for enhancement. Right of the plaintiffs/owners cannot be curtailed on such flimsy ground of awarding compensation at par with compensation for adjoining land without disclosing any such further eventuality of enhancement of compensation in hierarchy. In any case, compensation has to be awarded under the Land Acquisition Act for which necessary acquisition has to be made in accordance with law.

[7]. In view of above, no indulgence can be granted in this revision petition. This revision petition is accordingly dismissed.

27.08.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No