

CR-5434-2018 (O&M)

211

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

CR-5434-2018 (O&M)

Date of decision : 22.05.2019

Nar Singh and others

... Petitioners

Versus

Land Acquisition Collector and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ravi Dutt Sharma, Advocate
for the petitioners.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order, whereby an execution application under Order 21 Rule 32 of the Code of Civil Procedure, for implementation of the judgment and decree dated 24.12.2012, has been dismissed.

Mr. Sharma, learned counsel appearing on behalf of the petitioners submitted that the petitioners-plaintiffs filed the suit for declaration as well as mandatory injunction that they are entitled to 75% of the amount awarded as compensation for acquisition of land being tenant and mandatory injunction to defendant No.1, to pay the compensation and in alternative, to send the objections filed by the plaintiffs under Section 30 and 31 of the Land Acquisition Act (in short 'the Act') to the competent court of jurisdiction for adjudication and apportionment of the compensation, but the competent authority has not taken any action,

therefore, there was a willful disobedience giving the cause for moving the application. The trial Court has not taken into consideration the directions to be part of the decree and erroneously dismissed the objections.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Sharma.

It would be apt to reproduce the operative part of the directions contained in the judgment and decree dated 24.12.2012, which reads as under:-

"23. As a sequel to my findings on all the issues above, the present suit succeeds and is hereby decreed to the effect plaintiffs are entitled to relief of mandatory injunctions and consequently, defendant no. is directed to consider the case of the plaintiff for making reference in terms of Section 30 of the Act to the Court of competent jurisdiction for adjudication of the rival claims within three months from today. There shall be no order as to costs. Decree sheet be prepared accordingly. Pronounced in open Court."

Application under Order 21 Rule 32 of CPC was bereft of particulars like zimini orders of non-compliance. If at all, no action was taken by the competent authority under Section 30 and 31 of the Act, the remedy for the petitioners was to file the independent suit to ascertain the claims similar to the one referred to under Section 30 of the Act. There is no bar invoking the provisions of Section 9 of CPC as two parallel remedies are available.

Keeping in view the aforementioned facts, the impugned order, under challenge, cannot be said to be fallacious and infirm, much less, without jurisdiction. No ground is made out for interference.

Resultantly, the present revision petition is dismissed.

22.05.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No