

CR No.6020 of 2017

{1}

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

CR No.6020 of 2017

Date of decision:21.02.2019

Union of India and another

... Petitioners

Vs.

Ajmer Singh (D) through LRs and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arun Gosain, Advocate
for the petitioners.

Mr. Hanvir Singh Manes, Advocate
for the respondents.

AMIT RAWAL J.

The present revision petition is directed against the impugned order dated 27.09.2016 and 03.07.2017, whereby the objections filed by the Union of India have been dismissed and sale warrants of property belonging to the JD, has been issued.

Mr. Arun Gosain, learned counsel appearing on behalf of the petitioners submitted that Land Acquisition Collector had assessed the value of the acquired land, vide award dated 28.5.1975. Few of the land owners sought the reference under Section 18 of the Land Acquisition Collector, 1894 (for short "1894 Act"). The Reference Court, vide award dated 28.2.1989 enhanced the compensation to Rs.20,000/- per acre but the defendants did not assail the award. However, few of the land owners preferred an appeal before this Court and vide judgment and decree dated

30.10.2008 passed in RFA No.2506 of 1992 titled as Union of India etc. Vs. Ram Singh, and other connected matters, awarded further enhancement to the claimants from Rs.20,000/- to Rs.30,000/- per acre. The trial Court without noticing the fact that status of the respondents is not of co-sharers and in such circumstances, could not have entertained the execution application for granting them the benefit of enhancement granted to various other land owners.

In support of the aforementioned, reliance has been laid to the the decision dated 11.08.2014 (Annexure P-3) rendered in CR Nos.2768 of 2012 and 2778 of 2012 and thus, urged this Court for setting aside the order under challenge.

Per contra, Mr. Hanvir Singh Manes, learned counsel appearing on behalf of the respondents submitted that law with regard to claiming the compensation in the absence of filing the reference is no longer *res integra* as the co-sharers had right to claim the same. The order under challenge dismissing the objection is perfectly legal and justified and do not call for any interference. Previously, an execution application was filed by the decree-holder and objections of UOI were dismissed and therefore, the present objections during the issuance of sale warrants were not maintainable.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Gosain, for, pertaining to the same very acquisition, this Court vide order dated 11.08.2014, Annexure P-3 qua the land in dispute had already

rendered the decision in favour of UOI. The relevant finding reads thus:-

“After hearing learned counsel for the parties and examining the record, I am of the considered opinion that the order passed by the learned Executing Court is patently erroneous and liable to be set aside. It has been held by this Court in **Market Committee's case (supra)** that if after availing the remedy of reference under Section 18 of the Act, the appellate remedy under Section 54 of the Act has not been availed by filing appeal before the High Court for further enhancement of compensation, the other land owners are not entitled to make an application even under Section 28-A(1) of the Act to seek the same compensation awarded to the land owners who had filed their appeals. Thus, in view of the law laid down by the Supreme Court in the case of **Hukam Chand v. State of Haryana**, AIR 1996 SC 3275, the order passed by the learned Executing Court is found to be without jurisdiction.

Accordingly, both the revision petition are hereby allowed and the impugned order is set aside.”

In the instant case also, there is no dispute with regard to the date of award, enhancement and further enhancement to few land owners. No evidence has been placed on record or argument has been made to establish the status of the respondents is of co-sharers. The law with regard to filing of execution application on behalf of co-sharer is no longer res

integra. He can be permitted to file the execution application even if not availed the remedy of reference seeking enhancement, rather status is of land owners. The Executing Court has not adverted to the aforementioned fact but rejected the objections simply on the ground that UOI was not successful in the objections filed by the decree-holder, therefore, second objections were not maintainable. In my view, it remained totally oblivious of the controversy. Resultantly, the order under challenge is wholly perverse, fallacious and suffers from infirmity. The same is hereby set aside.

Revision petition stands allowed.

(AMIT RAWAL)
JUDGE

February 21st, 2019
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	No