

219

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

**1. Civil Revision No.6857 of 2016 (O&M)
Date of Decision: 16.12.2019**

Hakam Singh and Anr.Petitioners

Vs

State of Punjab and othersRespondents

2. Civil Revision No.8324 of 2016 (O&M)

Mohinder KaurPetitioner

Vs

State of Punjab and othersRespondents

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

Present:Mr. Davinder Kumar, Advocate for
Mr. Mr. P.K.S. Phoolka, Advocate
for the petitioners in CR No.6857 of 2016.

Mr. Deepak Aggarwal, Advocate
for the petitioner in CR No.8324 of 2016 and
for respondent No.22 in CR No.6857 of 2016.

Ms. Akanksha, A.A.G., Punjab.

Mr. Rajan Bansal, Advocate
for respondents No.5 to 21 in CR No.6857 of 2016 &
for respondents No.2 to 19 in CR No.8324 of 2016.

Mr. Arun Bansal, Advocate
for respondent No.21 in CR No.8324 of 2016.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CR Nos.6857 and 8324 of

2016 (O&M) are being decided. Since similar controversy is involved in both the petitions, therefore, for brevity facts are being culled out from CR No.6857 of 2016 (O&M).

[2]. Petitioners have laid challenge to the order dated 28.05.2015 passed by the Addl. District Judge, Bathinda, vide which the petitioners were directed to re-deposit the amount of compensation of the land by recalling the order dated 04.11.2014, whereby the amount was disbursed to the petitioners and order dated 10.02.2016, whereby the application filed by the petitioners for re-considering the order dated 28.05.2015 was dismissed.

[3]. The issue involved for consideration in the present revision petitions is that whether the unacquired land measuring 8 *Bighas* 16 *Biswas* can be made subject matter of apportionment in a petition under Section 30 of the Land Acquisition Act (hereinafter to be referred as 'the Act').

[4]. Perusal of the record would show that the land measuring 141 *Bighas* 7 *Biswas* was joint land between the co-sharers/parties. Out of the aforesaid land, only 132 *Bighas* 11 *Biswas* was acquired by the respondent-State. Remaining land measuring 8 *Bighas* 16 *Biswas* was not acquired. In the acquired land as well as in the unacquired land, parties are co-

sharers.

[5]. Respondents No.5 to 21 filed an application for recalling the order dated 04.11.2014 seeking direction against Hakam Singh, Lachhman Singh and Mohinder Kaur to re-deposit an amount of Rs.47,11,726/- along with interest before decision of proceedings under Section 30 of the Act.

[6]. The application filed by respondents No.5 to 21 was allowed by the Additional District Judge, Bathinda vide the impugned order dated 28.05.2015. It appears from the record that the unacquired land has been sold by the aforesaid persons and now question is whether the aforesaid sale would reduce the share in apportionment of compensation for the acquired land or the respondents would have to resolve it in some different proceedings.

[7]. I have considered the submissions made by learned counsel for the parties.

[8]. The bank guarantee as ordered by the Co-ordinate Bench of this Court on 17.10.2016 has not been executed by the petitioners so far. Proceedings under Section 30 of the Act are pending before the competent Court. Section 30 of the Act is confined to the apportionment of the acquired land. Status of co-sharers is to be seen viz.-a-viz. the acquired land for proper

disbursement/apportionment of the compensation.

[9]. The ratio of **Jagjit Singh and others vs. District Revenue Officer-cum-Land Acquisition Collector, Ambala and another, 2015(44) R.C.R. (Civil) 17; Bishamber vs. State of Haryana and ors., 1989(2) R.R.R. 164; Ghanshyam Bansal and another vs. State of U.P. and others, 2013(32) R.C.R. (Civil) 259 (Allahabad); Hitkarini Sabha, Jabalpur vs. Corporation of the City of Jabalpur, 1958 AIR (M.P.) 339; Jog Raj and others vs. Banarsi Dass alias Bans Gopal (deceased) and others, 1978 PLJ 185** and **Didar Singh vs. Nar Singh and others, 2016(2) PLR 412** relied upon by learned counsel for the respondents relate to the acquired land. There is no dispute that apportionment has to be done viz.-a-viz. acquired land amongst the co-sharers. The aforesaid case laws do not contemplate any such decision in respect of unacquired land for which Section 30 of the Act has no application. The apportionment has to be done from the compensation awarded by the competent Court/Authority.

[10]. In my considered opinion, the Additional District Judge, Bathinda has not adverted to the question as posed hereinabove i.e. whether unacquired land can be considered while apportioning the amount in favour of one of the co-

sharers. It may be some different issue whether selling of 8 Bighas 16 Biswas of land would reduce the entitlement of the vendors/co-sharers.

[11]. Vide the impugned order, re-deposit was ordered by recalling the order dated 04.11.2014 which was passed on the basis of no-objection by the claimants *inter se*. The amount was released subject to furnishing surety. Vide order dated 17.10.2016 passed by the Co-ordinate Bench of this Court, realization of the amount from the owners/co-sharers was stayed subject to furnishing bank guarantee. Subsequently, vide order dated 21.11.2016, interim order dated 07.10.2016 was vacated for non-compliance of the order, when bank guarantee was not furnished.

[12]. Since the order dated 17.10.2016 passed by the Co-ordinate Bench of this Court has not been complied with by the petitioners, therefore, it would be just and appropriate not to stay the realization of the amount in question. However, the question as poised in the preceding paras is a pure question of law for consideration of the Court, for which the lower Appellate Court shall make every endeavour to decide the issue before adverting to the main proceedings under Section 30 of Act.

[13]. In view of above, the matter is remanded to the Court of

Additional District Judge, Bathinda with a direction to decide the implication arising out of the unacquired land viz.-a-viz. the share/entitlement of the parties for the acquired land, for which proceedings under Section 30 of the Act are pending.

[14]. Both the revision petitions are accordingly disposed of.

December 16, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No