

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

(1) RFA-1030-1991

Baldev Singh & anotherAppellants
Versus
State of Punjab & others ...Respondents

(2) RFA-2107-1995

Baldev Singh & othersAppellants
Versus
State of Punjab & others ...Respondents

Date of decision: 03.07.2019

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

Present: None for the appellants.

Ms.J.K.Sidhu, AAG, Punjab.

G.S. SANDHAWALIA, J. (Oral)

The present appeals, bearing RFA-1030-1991 and RFA-2107-1995, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), are directed against the award of the Reference Court, Roop Nagar dated 12.04.1991/01.08.1995, whereby petition filed under Section 30 of the Act had been dismissed.

The Reference Court had come to the conclusion that the original owner was Ram Parkash, respondent No.2, who is entitled for the compensation and not the tenant. It had been held that Baldev Singh could not inherit any tenancy right of Nand Singh and therefore, he cannot claim the occupancy right as a tenant, which was the case set up in the petition filed under Section 30. It was held that in the presence of Nazar/Nazir Singh son of Nand Singh, Baldev Singh cannot claim any right of tenancy in the absence of any independent agreement with Baldev Singh. It was held

RFA-1030-1991 & RFA-2107-1995

that he was simply in unauthorized possession, as per the revenue entries and therefore, not entitled for any share in the compensation. Reliance had also been placed upon the ejectment order (Ex.A2) which was in favour of Ram Parkash. It had also been noticed that Baldev Singh could not form part of the joint Hindu family and the Ration Card relied upon by Baldev Singh on 04.12.1989 was, as such, created for the benefit of the present case.

It is pertinent to notice that the notification under Section 4 was issued 04.03.1981 and therefore, on the date of the Section 4 notification, the right of possession would accrue. The ejectment order was also dated 03.02.1978, which is against the tenant-Nand Singh, on account of the fact that the landowners had sought ejectment from the land measuring 26 kanals 2 marlas in Village Ahemadpur on the ground of failure to pay rent and that the applicants were small landowners. The Assistant Collector had allowed the petition with the condition that the tenants were to be accommodated on surplus area in accordance with the provisions of Section 10A of the Punjab Security of Land Tenures Act, 1953 but could not be ejected till then. Resultantly, it is apparent that there is an ejectment order in favour of the landowners prior to the issuance of the Section 4 notification.

The Reference Court rightly rejected the claim for compensation on the ground that the plea set up by Baldev Singh that he continued to be a tenant on account of inheritance from Nand Singh. It is to be noticed that once Nand Singh had a son, namely, Nazir Singh, there could be no independent agreement with Baldev Singh and therefore, he

RFA-1030-1991 & RFA-2107-1995

could not inherit any tenancy rights and therefore, being in unauthorized possession, could not be held entitled for any compensation.

Similar are the facts of RFA-2107-1995 wherein the claim was of tenancy of 21 kanals 11 marlas and the land had been acquired vide notification dated 20.05.1988. The Reference Court, Roop Nagar, vide award dated 01.08.1995, had held that Baldev Singh and Nazir Singh cannot be held to be entitled for compensation as Ram Parkash was the owner of the suit land and was held entitled for the compensation. The ejectment order dated 03.02.1978 was taken into consideration and the revenue record that Baldev Singh was described as Gair Marusi and conclusion was arrived at that Baldev Singh had no possession of his own right. Thus, he had no right of tenancy from Nand Singh. The owner, Ram Parkash had clarified that Baldev Singh was nephew of Nand Singh on which account, it is apparent that he has been resisting the entitlement of the landowners, without having any legal basis, as such, once the original tenant had been ordered to be evicted, before the Section 4 notification, as noticed, the entitlement, as such, to receive compensation would obviously not flow.

Accordingly, in view of the above discussion, the awards passed by the Reference Court, Roop Nagar are suffering from no illegality or irregularity and do not warrant interference by this Court and the appeals are, hereby, dismissed.

03.07.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No