

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No. 2211 of 2019 (O&M)

Date of Decision: 01.04.2019

Manjit Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Brijesh Nandan, Advocate
for the petitioner.

AVNEESH JHINGAN, J.(oral)

The present petition has been filed being aggrieved of the order dated 11.9.2018 passed by the Civil Judge (Senior Division), Patiala, (hereinafter referred to as "the Executing Court"), whereby the execution application has been disposed of by giving liberty to the petitioner to file fresh execution, if any amount is still due.

The brief facts necessary for adjudication are that the land of the petitioner was acquired in the year 1998. Land reference was decided in 2012. The petitioner and respondents No. 1 and 2 being aggrieved of the award approached this court by filing Civil Writ Petitions. The same were disposed of by common order dated 30.9.2013. The operational part is reproduced below:

"26. In view of our discussion above, the civil writ petitions filed by the Improvement Trust are dismissed. The writ petitions filed by the claimants are allowed and the price of the acquired land is assessed @ ₹ 840/- per square yard. The claimants shall also be entitled to benefits

under Sections 23 & 28 of the Act over and above the market value as assessed by the Tribunal."

In 2013, an execution application was filed by the petitioner. During pendency of execution proceedings, Civil Miscellaneous Application No.10134 of 2015 was filed in CWP No.18460 of 2015. The same was disposed of vide order dated 5.2.2016. The Court took notice of the fact that the issue raised by the applicant whether full amount of compensation has been paid or not was a question of fact and it was left for the Executing Court to decide the same. A direction was issued to the Executing Court to make an endeavour to dispose of the execution proceedings as early as possible but not later than six months. Thereafter, a request was made by the Executing Court to this Court to extend the time given vide order dated 5.2.2016. The time was extended by six months vide order dated 16.9.2016.

In the execution proceedings, the judgment-debtors filed an application submitting the calculation of compensation amount awarded to the decree-holder and also giving the interest and solatium to be paid as per the Land Acquisition Act. The detail of land acquired was given in the application and it was stated that the amount due has already been paid to the decree-holder/petitioner. In the application, a prayer was made that the decree-holder be directed to furnish the amounts already withdrawn in different execution proceedings at different times. The decree-holder failed to file any reply and to contradict the calculation submitted. The details of amount paid, the land acquired given by the Judgment-debtor were not rebutted.

In absence of any reply to the application filed by JD, the Executing Court disposed of the execution petition, as the facts were not forthcoming with regard to the claim of the decree holder, in view of the details furnished by the judgment-debtors. A liberty was granted to the petitioner to file execution afresh giving the details of the amount due, if any, by submitting calculations and by giving the exact detail, measurement of land acquired in term of award dated 29.11.2001.

Aggrieved of the order, the present civil revision petition has been filed.

Learned counsel for the petitioner argues that the details of the land acquired and calculation given by the judgment-debtor are, on face of it , incorrect.

The said issue cannot be gone into in the present petition, as it raises disputed questions of fact. Even the detail of area acquired itself is in dispute. The petitioner inspite of availing opportunities to file reply to the application filed by the judgment-debtor failed to do so. There is no reason forthcoming for not filing the reply or raising a dispute to the pleadings made by the judgment-debtor in the application.

It would be pertinent to mention that the date of filing of the application by the judgment-debtors and number of opportunities availed by the petitioner for filing reply to the said application have not been mentioned in the petition.

There is already liberty with the petitioner to file fresh execution, if still aggrieved. Learned counsel for the petitioner has not been able to show prejudice caused to the petitioner by the impugned order.

It is clarified that incase, any factual dispute still remain apart from filing the execution petition, the petitioner would be at liberty to avail the remedies as are available to him in accordance with law.

The civil revision petition stands disposed of accordingly.

01.04.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	Yes