

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 25.02.2020****CR No.1252 of 2020**

Joginder & others

...Petitioner/s

Vs.

The State of Haryana through Collector, Gurugram & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Akshay Kumar Jindal, Advocate, for the petitioner/s.

RAJIV NARAIN RAINA, J. (ORAL)

1. Notice of motion.
2. On the asking of the Court, Mr. Saurabh Mohunta, DAG, Haryana accepts notice on behalf of the respondents and waives service on them. Mr. Jindal to supply one extra copy of the paper-book to Mr. Mohunta during the course of the day.
3. This revision arises out of the execution proceedings decided by the Additional District Judge, Gurugram on 04.11.2019.
4. Mr. Jindal submits that this case is covered by the decision in CR No.7485 of 2019 titled 'Raj Pal & others Vs. State of Haryana & others' decided on 08.01.2020. In *Raj Pal*'s case, this Court passed the following order:

“1. Prayer in this petition is for modification of the order dated 15.7.2019 (Annex P1) passed by the learned Additional

District Judge, Gurugram, vide which, interest on the enhanced compensation has not been granted to the petitioners.

2. This petition deserves to be allowed on the point of interest for the reasons that follow.

3. Notice of motion.

4. Mr. Saurabh Mohunta, DAG Haryana, present in the Court accepts notice on behalf of the State. In passing of this order, respondent No.3-HSIIDC is not required to be heard by this Court as it will get an opportunity in remand proceedings.

5. In view of the settled law that a co-sharer owns every inch of the whole of the land and is entitled to the enhanced compensation which other co-sharers have got through proceedings under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') the Non-litigating co-owner of the acquired property has a right to claim enhanced compensation awarded by the final Court with interest on par with the successful co-owners who litigated by directly approaching the executing court under Section 28-A of the Act for relief of payment of enhanced compensation with statutory interest calculated in accordance with the provisions of the Act, that is, from the date of possession of the acquired land.

6. By the impugned order, the executing Court has directed payment of enhanced compensation but has ignored altogether the statutory benefit of interest which it was duty bound to have allowed. See the law settled by the Supreme Court in "A.Viswanatha Pillai and others vs. Special Tehsildar for Land Acquisition", (1991) 4 SCC 17: AIR 1991 Supreme Court 1966; "Samiyathal and others vs. Special Tehsildar and others" 2015 (2) RCR (Civil) 441 (SC) holding that all landowners irrespective of whether they have filed special leave petitions or not are entitled to enhanced compensation on par and several other precedents on the point which need not be referred to in the order.

7. In the present case, the Supreme Court had remanded the case to the High Court for a fresh decision by order dated

2.7.2013. The High Court delivered judgment on 9.3.2018 enhancing the compensation. In the Supreme Court, the enhanced compensation was reduced marginally i.e. from Rs.41,40,000/- to Rs.39,54,666/- per acre, with all statutory benefits by order dated 8.2.2019 after assessing the market value of the acquired land.

8. Accordingly, the petition is allowed. The case is remanded to the executing Court for calculating the statutory benefit of interest on the enhanced compensation by passing an additional order. The exercise be done with the assistance of the counsel for the petitioners, the District Attorney and the counsel for HSIIDC. The entire exercise be carried out within three months from the date of receipt of a certified copy of this order, with a report sent to the High Court of due compliance till payment to the petitioners. The report be placed on file without listing the case for hearing, unless it is adverse.

9. Respondent No.3-HSIIDC will avail its opportunity of being heard before the executing Court in pursuance to this order. Order be sent to its head office.”

5. Accordingly, the instant petition is allowed in terms of the directions contained in *Raj Pal*'s case.

25.02.2020
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No