

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

201

**RFA No.2888 of 1999
Decided on : 05.03.2020**

Ranjit Singh

... Appellant

Versus

State of Punjab and others

... Respondents

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

Present: None for the appellant.

Ms. Maloo Chahal, DAG, Punjab.

G.S. Sandhawalia, J. (Oral)

Office has put up the case for service of unserved respondents No.3, 7, 9 and 10. None has put in appearance on behalf of appellant, in spite of communication having been sent on 02.09.2019. Accordingly, case is taken up on board today itself, for disposal.

The present appeal filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') is directed against the Award of the Reference Court, Faridkot dated 10.08.1998.

The Reference Court in the petition which was filed under Section 18 of the Act has granted the benefit of the claim of ₹75,29,687/- alongwith interest @ 12% per annum from the date of the Award till the date of payment, which was granted by the Collector, on account of the fact that the possession was taken on 01.04.1964, whereas the notification under Section 4 of the Act was issued on 18.08.1994. The land measuring 34.58 acres had been acquired for the construction of a Drain in village Fatehgarh @ Dabrikhana, Hadbast No.11, Tehsil & District Faridkot

As per the Land Reference No.8 of 1997, out of which the

present appeal has arisen, the claim of the appellant was of exclusive ownership. It was held by the Reference Court that the appellant was a co-sharer, as per the revenue record and other co-owners had filed a writ petition before this Court, whereby they had been given liberty to seek remedy of Section 30 of the Act by filing a petition before the Collector, vide order dated 30.03.1998.

The said co-sharers had filed an application under Order 1 Rule 10 CPC before the Reference Court and in such circumstances the share was put in FDR till the claim of the co-sharers is settled by making reference under Section 30, as per the *Jamabandi*, which has been objected to in the grounds of appeal. The other objections raised in the grounds of appeal, as pointed out by the Counsel for the State, as none has appeared on behalf of the appellant, interest @ 15% was claimed on the amount of compensation awarded to the tune of ₹75,29,687/- for the reasons of taking possession before the Section 4 notification.

In view of the law laid down in '**R.L. Jain (D) by L.Rs. Vs. DDA and others**', (2004) 4 SCC 79 and '**Special Land Acquisition Officer Vs. Karigowda and others**', 2010 (5) SCC 708, the Reference Court as such did not have jurisdiction to grant compensation. An application was to be filed before the Collector for this purpose.

However, the State has not filed any appeal against the said claim and, therefore, the order of the Reference Court that only 50% of the amount had to be paid, as per the order of the Collector, cannot now be objected. The interest, thus, which had been granted @ 12% is

justified, in the facts and circumstances and no interference will be called for. Similarly, 25% of the amount had to be granted on account of severance, in view of the settled principle, as the land was acquired for the construction of a drain.

Keeping in view the above, this Court is of the opinion that there was no error as such in the Award passed by the Reference Court, as appellant-Ranjit Singh could not claim exclusive right to compensation being co-sharer. Similarly, the interest element is not liable to be enhanced, keeping in view the lack of jurisdiction, which was not with the Reference Court, which however, not objected by the State by filing an appeal.

Accordingly, there is no merit in the present appeal and the same is dismissed.

MARCH 05, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No