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

CR-1056-2021 (O&M)
Date of decision: 01.09.2021

Punjab Small Industries and Export Corporation ....Petitioner

versus

Randhir Singh and others ....Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Ms. Munisha Gandhi, Senior Advocate with
Ms. Vedika Gandhi, Advocate
for the petitioner.

Mr. B.R. Mahajan, Senior Advocate with
Mr. Rajbir Singh, Advocate
for the caveator/respondent No.1.

FATEH DEEP SINGH, J.

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

One-Parduman Singh, was original owner of land, out of which, 374 Kanals 15 Marlas were acquired by the authorities in the area of village, Goindwal, Tehsil Tarn Taran, District Amritsar, for the purposes of development of Nucleus Industries Complex, Goindwal.

Notification under Section 4 of the Land Acquisition Act, 1984 (in short 'the Act') was published on 29.06.1988 and under Section 6 of the Act on 03.01.1989. The Land Acquisition Collector, Industrial Department passed his award on 29.11.1990 awarding compensation at the rate of Rs.40,000/-; 20,000/-; 7000/-; 15,000/- per acre for Chahi/Nehri, Barani, Banjar Kadim and Gair Mumkin, kind of lands, respectively. A reference was filed under Section 18 of the Act seeking enhancement of compensation and vide judgment/order dated 21.03.2005, the reference Court enhanced the compensation amount followed by judgment of this Court dated 29.08.2016 enhancing the compensation to Rs.110/- per square yards. The Apex Court vide its order dated 21.01.2017 upheld the compensation so awarded. During the course of execution proceedings, the Court of the learned Additional District Judge, Amritsar, vide order dated 26.10.2013 awarded interest from the date of filing of the execution application and this Court vide its order dated 31.05.2016 allowed the interest commensurate and at par to each of the co-sharers.

It is during the course of the proceedings, a dispute had cropped up, whereby, the present petitioner-Punjab Small Industries and Export Corporation (in short 'PSIEC') disputed that acquisition was only in respect of 163 Kanals and 15 Marlas of land and not 187 Kanals 7 ½ Marlas, as claimed by the owners. The Court of learned Additional District Judge vide its order dated 15.05.2018 dismissed the objections by the present petitioners. When the present petitioner failed to make the payment vide order dated 22.02.2021 (Annexure P-2), the Court of learned Additional District Judge, Amritsar, issued warrants of attachment against the present petitioner, which is subject matter of challenge before this Court, in this petition as well as the order dated 07.12.2020 passed by the Court of the learned Additional District Judge, Chandigarh, holding that co-sharers of Darshan Singh and Balwinder Singh, co-sharers with others were entitled to enhanced compensation on *pro rata* basis with that of their co-sharers along with statutory benefits and interests, in terms of the judgment of this Court dated 29.08.2016 enhancing the compensation.

Aggrieved over these true findings, the instant revision by resorting the provisions of Articles 226/227 of the Constitution of India has been invoked by the present petitioner.

Heard counsel for both the parties and perused the records.

During the course of hearing arguments, it is by no means differed that the order enhancing the compensation passed by this Court awarding Rs.110 per square yards, as compensation, in respect of the acquired land has since then attained finality. It is there well established on the records and could not be displaced by the counsel for the petitioner that JDs had acquired 374 Kanals 15 Marlas of the land of the decree holders who all are irrefutably co-sharers. The Court of the learned Additional District Judge, Amritsar, had clearly held that Randhir Singh, co-sharer, legal heir of Maharaj Singh, being one half owner, is entitled to similar compensation, as awarded to Darshan Singh and others, being co-owners of the same land which was acquired by the JDs. It could not be pointed out if there is any challenge to this order dated 26.10.2013 by any of the parties. Having attained finality, each of the co-sharers are entitled to enhanced compensation at par with each other. On behalf of the petitioner reliance has been laid down on judgments titled as '*Gurpreet Singh versus Union of India*' (2006) 8 Supreme Court Cases 457and *'Sunder versus Union of India*' (2001) 7 SCC 211 and to counter the same, Mr. B.R. Mahajan, Senior Advocate assisted by Mr. Rajbir Singh, Advocate for the caveator/respondent No.1 has sought to controvert the same by placing reliance on judgments titled as *'Choodanatha Setty versus Gopalachetty'* 1995(2) CivCC 611; *'Chaganti Lakshmi Rajyan and others versus Kolla Rama Rao'* (1998) 1 ALD 497; *'Satish Kumar Gupta and others versus State of Haryana and others'* (2017) 4 SCC 760; *'Patiala Improvement Trust thru, its Chairman versus S. Amar and* others' (2005) 2 RCR (Civil) 332; *'A. Viswanatha Pillai and others versus The Special Tehsildar for Land Acquisition No.IV and others*' (1991) 4 SCC 17; *'Samiyathal and others versus Spl. Tahsildar and* others' 2015(2) RCR (Civil) 441; *'Smt. Parwati and another versus The State of Haryana and another'* (2009) 5 RCR (Civil) 572; *'Ram Chander and others versus The State of Haryana* *and another'* 2016 (4) Law Herald 3533 and *'Barkat Ali and another versus Badrinarain (dead) by LRs'* (2008) 4 SCC 615 and appreciating the submissions, it needs to be kept in mind that there is nothing discernible from the records that the property acquired was not joint, co-owned by the decree holders and there was neither any distinct and specific shares and, therefore, to the mind of this Court an order passed by the competent authority regarding enhancement of the compensation would be to the benefit to the entire set of co-owners and there cannot be any differentiation between these co-owners. Moreover, a co-sharer can act on behalf of all the co-sharers and compensation to one set of co-sharer needs to be given to other co-sharers as has been laid down in the case of *"A. Vishwanatha Pillai versus Special Tehsildar for Land Acquisition"* 1991 (4) SCC 17 even if that co-sharer has not availed remedy for enhancement of the compensation.

Thus, the counsel for the petitioner could not point out any embargo that could be placed on the decree holders seeking enhanced compensation by virtue of being co-sharer of undivided joint property which was acquired by the judgment/order. The Court below has rightly decided the execution application leading to issuance of warrants of attachment of the petitioner, who rather to the mind of this Court, are trying to subvert the decree holders from enjoying and reaping the benefits of their enhanced compensation.

Thus, there is no merit in the instant petition and the same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

01.09.2021
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No