

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

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CWP-12920-2021 (O&M)

Date of decision: 16.07.2021

DILBAG SINGH AND ORS

..Petitioners

Versus

UNION OF INDIA AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parvinder Singh, Advocate for the petitioners.
Ms. Kanica Sachdeva, AAG, Punjab.

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Through this writ petition, the petitioners, who claim to be co-owner in an undivided land, pray for issuance of a writ in the nature of certiorari to quash the order passed by the competent authority-cum-Land Acquisition Collector on 31.03.2021. It is not in dispute that some part of the land, out of joint khata, was acquired by the Central Government under the National Highways Act, 1956 (in short 'the 1956 Act'), vide an award dated 03.05.2017. On an objection raised by the petitioners, the dispute about apportionment of the compensation for the land acquired was referred to the District Court on 24.05.2018.

Now, an additional area out of the same undivided khata (although the petitioners claim that there is an oral partition of the property) was acquired vide an award dated 06.03.2020. However, the petitioners'

Section 3H (4) of the 1956 Act has been rejected on the ground that the matter is already pending with the District Court.

The amount of compensation has already been paid. However, learned counsel for the petitioners submits that some additional compensation is still left to be disbursed.

Heard, learned counsel for the petitioners and with his able assistance, perused the paper book.

Learned counsel representing the petitioners contends that as per sub-section 4 of Section 3H, the competent authority under the 1956 Act is bound to refer the dispute as to the apportionment of amount or any part thereof or to any person to whom the same or any part thereof is payable to the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. He, hence, contends that the order passed by the competent authority is wrong.

There is some substance in the argument of learned counsel. However, in the facts of the case, it would not be appropriate to issue the writ as prayed for. There is no dispute that a previous reference made by the competent authority under sub-section 4 of Section 3H of the 1956 Act is already pending with respect to the apportionment of amount out of the same alleged undivided khata. In such a situation, it would be more appropriate to direct the concerned Court to decide the dispute, if any, with regard to

apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable with respect to subsequent acquisition vide award dated 06.03.2020. This course would not only avoid multiplicity of proceedings but also help the Court in expeditious disposal thereof.

In view of the aforesaid facts, the petitioners are granted liberty to file an application before the concerned Court where the previous reference under sub-section 4 of Section 3H of the 1956 Act is pending in terms of the observations made above. It is expected that the concerned Court would decide the dispute after taking into the consideration the request, if any made.

Since the order has been passed without issuing notice to the private respondents, they shall have liberty to file an application for its recall, if so advised.

With these observations, the writ petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

16.07.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE