

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-7241 of 2019 (O&M)  
Date of decision: 30.09.2022

Shivala Mandir Jagan Nath

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naresh Kaushal, Advocate  
for the petitioner.

Mr. Sandeep Chopra, DAG, Punjab.

**ANIL KSHETARPAL, J(Oral)**

The land belonging to the petitioner was the subject matter of involuntary acquisition at the hands of State of Punjab. On an application filed by the petitioner, expressing dissatisfaction on the amount of compensation offered by the Land Acquisition Collector, the matter was referred to the Reference Court under Section 18 of the Land Acquisition Act, 1894. The Reference Court assessed the market value @ Rs.6, 96,000/- vide award dated 01.03.2004. The petitioner did not file any appeal, however, various other owners as well as the State of Punjab filed appeals which were disposed of by the High Court on 08.08.2008. The main judgment was written in RFA No.3636 of 2001 (**Punjab Small Industries & Export Corporation Ltd. vs. Gurdip Singh and others**, decided on 08.08.2008). The market value was assessed @ Rs.8,00,000/- per acre.

The petitioner filed an execution petition claiming help of the Executing Court to recover the market value @ Rs.8,00,000/- per acre on the basis of the judgment passed by the High Court. The objections filed by

the State of Punjab have been allowed and the execution petition has been dismissed.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner while referring to the order passed by the Executing Court, Annexure P-7, submits that in the similar circumstances, an execution petition was entertained and allowed by the Executing Court. He submits that though he admits that the revision petition against the order Annexure P-5 is pending in the High Court.

This court has carefully read the order Annexure P-5, dated 19.04.2016. In that case, the execution petition was allowed on the ground that the case filed by another co-sharer of the same khata of land, the amount has been enhanced.

In fact, the issue of maintainability of execution petition without any judgment or decree in favour of the landowners has been examined in detail in Civil Revision No.814 of 2020, decided on 15.09.2022. It has been held that such execution petition in absence of the judgment and decree or award in favour of co-sharer is not maintainable.

As far as argument of the learned counsel that the High Court has enhanced the market value to Rs.8,00,000/-, it may be noted that the petitioner has never filed any appeal before the High Court. He accepted the award passed by the Reference Court on 01.03.2004, assessing the market value of the acquired land @ Rs.6,96,000/- per acre. Though, the State of Punjab filed an appeal even in the case filed by the petitioner against the award passed by the Reference Court on 01.03.2004, however, the petitioner neither filed an appeal nor filed the cross objections therein. There is no

direction by the High Court to pay the amount of market value uniformly to all the landowners irrespective of the fact whether the appeals have been filed by them or not.

At the most, the appeal filed by the State of Punjab has been dismissed. However, there is no automatic enhancement in the case of the appellant.

The learned counsel representing the petitioner claims that the order passed in *Bhagwan vs. State of Haryana and others (SLP (Civil) No.14405 of 2010, decided on 17.01.2012)* and *Samiyathal and others vs. Spl. Tehsildar and others, 2015 (2) R.C.R.(Civil) 441.*

It is evident from the reading of both the orders that the Supreme Court in exercise of powers under Article 142 of the Constitution of India had issued directions. However, such directions are in the facts and circumstances of the case and such powers can only be exercised by the Hon'ble Supreme Court.

The various judgments passed by the Supreme Court have been considered while forming an opinion that there is no automatic enhancement in absence of judgment or decree in favour of the landowners.

Hence, finding no merit, dismissed.

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

**September 30, 2022**  
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**(ANIL KSHETARPAL)**  
**JUDGE**

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