

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i)

LPA-741-2022

Ramesh Kumar and others

..... Appellants

Versus

State of Haryana and others

..... Respondents

(ii)

LPA-824-2022

Dharam Pal and others

..... Appellants

Versus

State of Haryana and others

..... Respondents

Date of Decision : 01.12.2022

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. V.B.Aggarwal, Advocate
for the appellants in both the appeals.

VIKRAM AGGARWAL, J

This judgment shall dispose of aforesaid two Letters Patent Appeals, both directed against the judgment dated 23.05.2022, passed by the learned Single Bench vide which the writ petitions filed by the appellants were dismissed.

The possession of the land of the appellants was illegally taken by the State of Haryana in the year 1972 without acquiring the same. A road leading from Village Babain to Village Bir Surja in District Kurukshetra was also constructed on this land. This forced some of the present appellants and other similarly situated persons to knock the doors of

this Court by way of a writ petition which was allowed vide order dated 19.11.2010 (Annexure P-1 with the writ petition) (reference to annexures hereinafter shall indicate reference to annexures with the writ petition) and a direction was issued to the State of Haryana to initiate acquisition proceedings, granting liberty to the State to invoke emergency provisions as envisaged under Section 17 of the Land Acquisition Act, 1874 (hereinafter referred to as 'the Act'). In compliance of the directions issued by this Court, notification under Section 4 of the Act was issued followed by a declaration under Section 6 of the Act and finally award dated 27.04.2012 was announed. The State as also the land owners instituted Regular First Appeals before this Court against the said award. During the course of hearing of these appeals, an order dated 23.05.2017 (Annexure P-3) was passed, stating that the State Government could be moved for claiming of damages for having remained in unlawful possession of the acquired land prior to the issuance of the notification under Section 4 of the Act. On such claim having been moved, award dated 07.06.2018 (Annexure P-4) was passed awarding damages to the land owners.

Aggrieved by the quantum of damages awarded vide award dated 07.06.2018, the writ petitions in question were preferred which have now been dismissed by the learned Single Bench vide judgment dated 23.05.2022 , holding that writ jurisdiction could not have been invoked for seeking enhancement in damages and the appellants were relegated to the Civil Court for the redressal of their grievances.

Against the said judgment dated 23.05.2022, passed by the learned Single Bench, the present appeals have been preferred.

We have heard learned counsel for the appellants and have

perused the case files.

Learned counsel for the appellants has contended that the learned Single Bench erred in dismissing the writ petitions and that the amount of compensation awarded by respondent No.4 was liable to be enhanced by considering the escalation in prices from 1972 to 2011. Learned counsel has referred to various orders passed by this Court from time to time as also the orders passed by the authorities under the Act. To support his contention, learned counsel has relied upon the judgment of Hon'ble Supreme Court in *Huchanagouda vs. Assistant Commissioner And Land Acquisition Officer & Anr. 2019 (5) R.C.R. (Civil) 663.*

No doubt, the State of Haryana remained in unlawful possession of the land of the appellants from 1972 till 2011 when the notification under Section 4 of the Act was issued, that too after intervention by this Court. The award passed after acquisition of the land is already subject matter of challenge before this Court in separate appeals. In so far as damages for unlawful possession of the land are concerned, the same were assessed by respondent No.4 vide award dated 07.06.2018 (Annexure P-4). Whether this award is adequate or not would have to be decided by leading evidence. The appellants would be required to prove their stand by producing relevant oral/documentary evidence as may be required by law. In any case, these questions cannot be gone into under the writ jurisdiction. As rightly observed by the learned Single Bench, the wrongful dispossession of the appellants without acquisition of their land is an independent act for which even a civil suit for damages can be filed which would give an appropriate opportunity to both sides to lead evidence in support of their claims.

We have gone through the judgment relied upon by the learned counsel for the appellants. In that case land was acquired for implementation of a certain project and the award dated 08.03.2006 was passed assessing the rate of the land acquired. In reference, the said rate was enhanced. In appeal, the High Court granted 5% escalation while comparing the market value determined in respect of an acquisition under another notification prior to the notification in question. The matter finally reached the Hon'ble Supreme Court and the Hon'ble Supreme Court enhanced the rate of escalation to 10%. This judgment would not help the appellants as the same was passed while assessing the market value of the land acquired while in the present case, the appellants are seeking enhancement of damages for which the escalation cannot be applied. In our considered opinion, no error was committed by the learned Single Bench in dismissing the writ petitions and the same does not warrant any interference.

In view of the aforementioned facts and circumstances, we do not find any merit in the present appeals and the same are hereby dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

01.12.2022
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No