

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5319 of 2019 (O&M)
Date of decision: 07.12.2022

Sushma Gauba

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jain, Advocate, and
Ms. Amandeep Kaur, Advocate
for the petitioner.

Mr. Harsh Vardhan, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

1. The Executing Court has dismissed the petitioner's execution petition for receiving the compensation for involuntary acquisition of her land. She claims to have purchased the property from Sh. Vinod Sahni vide registered sale deed no.1439 dated 01.05.2001. While dismissing the execution petition, it has been found that her name or her vendor's name does not figure in Statement no.19 and there is no mutation in her favour.

2. The ownership of the property is transferred by execution of a registered sale deed or a transfer deed and it is not governed by Statement no.19 or the mutations. These are the only records prepared by the revenue authorities for their facility i.e for transparency. The Executing Court should have gone deep into the matter before passing any order. It is evident that the Presiding Officer did not discharge its responsibility carefully. The Executing Court is presided over by a member of a Superior

Judicial Service. It is expected that the officer with sufficient experience must know that the registered transfer deed or sale deed is the document of title and not the Statement no.19 or the mutation.

3. The Executing Court should have examined whether the share of compensation of Sh. Vinod Sahni or the petitioner has ever been paid to the remaining co-owners or not. If it has already been paid than the court is required to exercise the powers of restitution as provided under Section 144 of the Code of Civil Procedure, 1908. If it has not been paid then the State is required to pay the said amount to the petitioner.

4. Keeping in view the aforesaid facts, the impugned order dated 09.04.2019 is set aside.

5. The revision petition is allowed.

6. The Executing Court is requested to re-decide the matter within 6 months, from today, positively.

7. The parties through their counsels are directed to appear before The Executing Court, on 06.01.2023.

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

December 07, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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