

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

CR-4631-2022 (O&M)

Date of decision: 14.11.2022

Indian Oil Corporation Limited

....Petitioner

Versus

Paramjit Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.P.K.Mutneja, Sr. Advocate with
Mr.Brijesh Kumar,
Ms. Suverna Mutneja, Advocates for the petitioner
Mr.Suresh Kumar Kaushik, Advocate for respondent no.1

ANIL KSHETARPAL, J (Oral)

On 9th November, 2022 the following order was passed by

this Court:-

Heard the learned senior counsel representing the petitioner. Admittedly, at the relevant time of the issuance of the preliminary notification under Section 4 of the Land Acquisition Act, 1894 and the date of the passing of the award, late Sh.Khazan Singh was the owner. On his request, the matter was referred to the court for re-assessment. Sh.Khazan Singh is stated to have died during the pendency of the proceedings before the Reference Court. The respondents are sought to be denied the enhanced compensation on the ground that they did not prefer any appeal against the judgment passed by the Reference Court. In these circumstances, the question arises, "As to whether every legal heir is required to file an appeal, particularly when some other legal representatives have filed the appeal, which was accepted and the amount of compensation was enhanced from what was awarded by the Reference Court?" Learned senior counsel prays for some time to examine the law for the assistance of the Court.

Sh.Suresh Kumar Kaushik, Advocate, enters appearance for the respondent and submits that respondent-Paramjit Singh, though is a class I heir, was wrongly not brought on record as legal representative of Sh.Khazan Singh.

Adjourned to 14.11.2022.

To be listed in the urgent list.”

Again heard the learned counsel representing the parties. The correctness of the facts noticed in the order dated 9th November, 2022 is not disputed. Learned senior counsel representing the petitioner while relying upon the judgment passed in ‘**Ramesh Singh (dead) by LRs and others versus State of Haryana and others (1996) 4 SCC 469**’ contends that Sh.Paramjit Singh (respondent no.1 herein) never filed any appeal challenging the correctness of the assessment of the market value by the Reference Court. Hence, he is not the decree holder. Consequently, he is not entitled to the enhanced market value as assessed by the High Court. He further contends that Sh.Paramjit Singh has migrated to a foreign land and he has never come back to India since then.

On the other hand, learned counsel representing Sh.Paramjit Singh-respondent contends that the application under Section 18 of the Land Acquisition Act, 1894, was admittedly filed by Shri Khazan Singh with respect to his entire acquired land measuring 22 kanals and 9 marlas, which, on being referred to the court, came to be decided. In a joint execution petition filed by all the heirs of late Sh.Khazan Singh, all the heirs, including Paramjit Singh have been paid the compensation. He submits that some of the legal representatives of late Sh. Khazan Singh filed the appeal in the capacity of his legal representatives and not in their individual capacity.

This Court has considered the submissions of the learned

counsels representing the parties and analyzed their arguments. In the considered view of this Court, the revision petition lacks merit for the following reasons:-

1) Admittedly, late Sh.Khazan Singh was the original owner. He filed an application under Section 18 of the Land Acquisition Act, 1894 with respect to his entire acquired land.

2) Sh. Khazan Singh died during the pendency of the reference petition.

3)The Reference Court decided the application filed by Shri Khazan Singh, who was owner of the entire acquired land. Thus, the Reference Court, while executing the decree, paid the enhanced compensation to all the class I heirs including Sh.Paramjit Singh. Some of the legal representatives filed appeal against the judgment passed by the Reference Court. Thus, Late Sh.Khazan Singh filed the appeal through his representatives.

Learned senior counsel failed to draw the attention of the Court to any assertion made in the grounds of appeal that the other heirs are restricting only to their claim in the appeal while excluding the rights of Sh.Paramjit Singh, who is admittedly a class I heir. Sh.Paramjit Singh is son of Shri Khazan Singh. The appeal was filed against the judgment passed by the Reference Court, which is with respect to the entire acquired land of late Sh.Khazan Singh. Order 41 Rule 4 of the Code of Civil Procedure, 1908, provides that one of the several plaintiffs or defendants may obtain reversal of the whole decree. This case stands

on a better footing. Some of the legal representatives did file an appeal against the judgment passed by the Reference Court challenging the judgment of the Reference Court in which the market value of the entire land of Late Sh.Khazan Singh was assessed. Hence, Sh.Paramjit Singh, being class I heir, cannot be deprived of the benefits awarded. The judgment passed in **Ramesh Singh (supra)** is with respect to a co-sharer or co-owner who never filed an application under Section 18 of the Land Acquisition Act, 1894. In that context, the Supreme Court held that the Executing Court cannot go behind the decree. In this case, the position is entirely different. Respondent Sh.Paramjit Singh is one of the class I heirs of Late Sh.Khazan Singh. In the appeal, all the Class I heirs were required to be impleaded as legal representatives upon his death. However, for whatsoever reason, if a heir has not been impleaded, his rights, being on the same footing as of others shall not suffer and he shall be entitled to the benefits of judgment of the High Court or the Supreme Court. Admittedly, the share of Sh.Paramjit Singh has not been paid to the remaining heirs. Learned senior counsel has failed to show as to how a beneficiary of the acquisition can retain the benefit of share of Sh.Paramjit Singh, who is class 1 heir of late Shri Khazan Singh. As regards the next argument, it may be noted that the application has been filed under the signatures of Sh.Paramjit Singh. No material has been produced to prove that Sh.Paramjit Singh never visited India or he did not append his signatures.

Keeping in view the aforesaid facts, no ground to interfere is made out. Hence, dismissed.

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

14.11.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE