

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6727-2019(O&M)
Date of decision:30.03.2022

KRISHAN KUMAR

...Petitioner

Versus

THE HANSI FRIENDS COOPERATIVE HOUSE BUILDING
SOCIETY LTD HANSI AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Addl.A.G., Haryana.

Mr. Manjeet Singh, Advocate,
for the respondent-Society.

ANIL KSHETARPAL, J (Oral)

The petitioner assails the correctness of the order passed by the Additional District Judge, Hisar, on 16.10.2019. The operative part of the order reads as under:-

“Arguments heard. Order dated 22.08.2016 passed by the Hon'ble High Court in RFA NO.172 of 2015 perused. It is held by the Hon'ble High Court that the acquired land belongs to the applicant Society and the applicant Society is entitled to release of amount of compensation. The application filed by applicant Mahender Kumar for not releasing the amount to the applicant Society is without any merit and same is dismissed. The amount of compensation be released in favour of the applicant Society in terms of Order dated 22.08.2016 passed by the Hon'ble High Court as per Rules, against proper receipt and identification. Papers be tagged with main file and consigned to record room.”

Respondent no.1 is a body corporate under Section 39 of the

Haryana Cooperative Societies Act, 1984. Hence, it is entitled to own and possess immovable properties. Certain immovable property owned by the Society was compulsory acquired. There were different reference petitions under Section 18 of the Land Acquisition Act, 1894, that were referred to the Court. The first reference petition was filed by the Society, whereas the second petition was filed by the certain members of the body corporate. The Reference Court held that petitioners no.1 to 3, 12, 13, 15, 16, 18 to 28, 33, 34 and 41 are not entitled to compensation being the invalid members.

Two Regular First Appeals were preferred in the High Court. The appeal filed by the individual members being RFA No.172 of 2015 was disposed of on 22.08.2016, with the following order:-

“Ld. counsel for the appellant submits that the Reference Court, vide its Award dated 21.10.2014, had dismissed the Reference Petitions, preferred by the appellants, for they were not even found to be the members of The Hansi Friend Cooperative House Building Society Limited Hansi (respondent no.3), which indeed was the owner of the acquired land. However, he submits that in the wake of a detailed inquiry and the documents, Annexure A1 to A5, status of the appellants No.1 to 6 and 9 as members of respondent Society is no longer in dispute.

Ld. counsel for respondent No.3, submits that for the acquired land was owned by the Society, it's members could neither maintain a reference nor an Appeal in their individual capacity. However, he submits that the Society itself has preferred an Appeal i.e. RFA No.10305 of 2014, seeking enhancement in the compensation, awarded by the Reference Court, all members of the Society, including appellants No.1 to 6 and 9, shall be entitled to compensation or enhancement if any, in proportion to their share in the acquired land.

That being so, learned counsel for the appellants submits that let this appeal be disposed of in terms of the statement made by the learned counsel for respondent no.3.

Ordered accordingly.”

It has been stated that in an execution petition, the payment of

the enhanced compensation has been released to the Society.

The petitioner filed an application for not disbursing the amount of compensation lying deposited in the banks to the Hansi Friends Cooperative House Building Society Limited, Hansi. The aforesaid application has been disposed of by the order dated 27.08.2016.

As already noticed, the amount has already been paid to the Society.

The learned counsel representing the petitioner contends that the petitioner's application has in fact not been disposed of.

Per contra, the learned counsel representing the Society contends that the petitioner is a former President of the Society, who was found involved in pilfering/embezzling of the funds, guilty of inducting fake members and tampering with the records. A criminal case was registered against the petitioner and some others members of the Society.

The Deputy Registrar, Cooperative Society has already decided the dispute inter-se amongst the members and the payment has been received only to 42 members who were found genuine. He further contends that the petitioner is at liberty to file an application before the Deputy Registrar Cooperative Society who has the jurisdiction as per the Act to decide inter-se dispute between the members and the Society.

Once, it is not in dispute that the acquired immovable property was owned by a Corporate entity who has already been released compensation then the remedy for the petitioner is to lodge his individual claim as a member. If he has any other grievance, he can approach the competent authority or the Court. In the execution petition, the Court has already released the amount in favour of the owners (i.e. Society).

In view thereof, no further order is required to be passed.

Dismissed.

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

March 30, 2022
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(ANIL KSHETARPAL)
JUDGE

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