

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

112

CR-589-2020

Date of decision: 25.07.2022

Ishar Singh and another

.....Petitioners

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. V.K. Jindal, Sr. Advocate with
Mr. Gopal Soni, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside of the impugned order dated 02.09.2019 (Annexure P-10), vide which the appeal filed by the petitioners to impugn the order dated 31.05.2019 (Annexure P-9) was dismissed.

The petitioners filed a suit for declaration against the respondents-State to challenge the notice issued for recovery of an amount of Rs.1,78,80,186/- from them on the ground that some wrong payments with respect to the acquisition of land had been made and received by the petitioners. In the suit filed by the petitioners/plaintiffs, they pleaded that they were unaware as to how such a huge calculation of amount had been arrived at by the respondents-State. It was also pleaded that a representation dated 25.09.2018 had been made to the respondents which had still not been decided. Hence, the defendants could not take any coercive method against them without deciding their representations. It was further pleaded that the respondents-State had

still not disbursed the entire compensation to them for which execution had been filed and which too was pending adjudication. Hence, the recovery notices were erroneously and illegally sent to them. During the pendency of the suit application under Order 39 Rules 1 and 2 of the Civil Procedure Code, 1908 (for short, 'the Code') was moved by the plaintiffs which was dismissed vide the impugned order.

Learned senior counsel has vehemently reiterated the submissions and stand taken before the Courts below that the notice qua recovery of Rs.1,78,80,186/-, was invalid. Learned senior counsel submits that the petitioners cannot be excluded from the scope of judgment passed in favour of other owners as they are similarly situated. Hence, no amount of compensation beyond their entitlement had been disbursed by the respondents.

I have heard learned senior counsel and perused the material on record.

The land of the petitioners/plaintiffs was acquired vide award No.8 dated 27.12.1990. Gulzar Singh one of the co-sharers filed a reference under Section 18 of the Land Acquisition Act which was decided on 06.10.1994 and compensation amount was then enhanced to Rs.1,41,000/- per acre. In the RFA No.788 of 1995 which was filed in this Court, the compensation was enhanced to Rs.2,91,800/- per acre vide order dated 24.12.1998. An amount of Rs.7,07,77,419/- was paid to the plaintiffs vide cheque No.097812 dated 20.03.2015 on the basis of SLP No.23393 of 2009. However, when an enquiry was conducted a number of irregularities were detected in the disbursement of the enhanced amount to the petitioners. It came to be revealed that the

aforementioned disbursement of the enhanced amount had been made to the petitioners under the garb of the order of SLP No.23393 of 2009 which was in no way connected either with the department or with the State of Haryana. The main case regarding enhancement of compensation amount was decided in CA No.3278-3287 of 2013 titled as 'Ashrafi Vs. State of Haryana' and the plaintiffs were not even a party to the said litigation. It was further revealed that the plaintiffs had in fact fraudulently received the enhanced compensation amount on 20.03.2015. It was in this background, notices were sent to the plaintiffs on 20.04.2018 for the recovery of the enhanced compensation which stood fraudulently disbursed and received by them.

It would be relevant to point out that even if it is assumed that the petitioners were entitled to enhanced compensation, the fact of the matter is that the petitioners received the enhanced amount of compensation on the basis of decision in SLP No.23393/09. The department concerned had even initiated disciplinary as well as criminal proceedings against erring officials.

In the circumstances, this Court concurs with the Courts below that no prima facie case for grant of ad-interim injunction is made out in favour of the petitioners. Further, no irreparable loss or injury will be caused to the petitioners as they are legally bound to return the amount wrongly disbursed in their favour.

The impugned orders passed by the Courts below neither suffer from any illegality nor irregularity.

Dismissed.

However, it is made clear that anything observed

hereinabove shall not be construed to be an expression of opinion on the merits of the suit.

25.07.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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