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2023:PHHC:061176

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCp-2204-2011 (O&M)
Date of decision: 29.04.2023

Court on its own motion

... Petitioner

Vs.

Ajit Singh, Dist. Revenue Officer-cum-LAC, Rohtak

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Surinder Gandhi, Advocate
for the writ petitioner.

Mr. G.S. Attariwala, Sr. Advocate with
Mr. Vansh Chawla, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (ORAL)

On 13.09.2011, Division Bench, in CWP-15788-2011, passed the
following order: -

*“The short prayer made by the petitioner in this petition under
article 226 of the Constitution is for issuance of direction to the
District Revenue Officer-cum-Land Acquisition Collector, Rohtak
to forward his application dated 16.3.2011 for adjudication of the
learned District Judge which is to decide the question of*

apportionment under Section 30 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). The petitioner has claimed that he has been in possession of the acquired land. His father has been recorded as 'occupancy tenant' in the revenue record (Muziara Gair Marusi). The District Revenue Officer-cum-Land Acquisition Collector, Rohtak vide order dated 1.7.2011 (Annexure P-11) has adjudicated and decided the issue against him and has rejected his claim that he or his father is in possession of the land with status of Muziara Gair Marusi. Cryptic order has been passed by District Revenue Officer-cum-Land Acquisition Collector concluding that the possession is of the owner i.e. respondent No.5 and has disbursed the whole amount of compensation to him against bank guarantee. The petitioner has prayed that the order dated 1.7.2011 (Annexure P-11) be also quashed because it amounts to adjudicating legal controversy which could be settled by reference Court.

2. *In the affidavit filed by the District Revenue Officer-cum-Land Acquisition Collector, respondents No.3 & 4, it has been categorically asserted that no application under Section 30 of the Act was received from the petitioner for determining his share of compensation and, therefore, there was no occasion to make a reference. But, however, to the contrary the petitioner has initially*

averred in the writ petition that an application on 16.3.2011 was filed before the District Revenue Officer-cum-Land Acquisition Collector and it was duly received by the then District Revenue Officer-cum-Land Acquisition Collector, Sh. Ram Avtar Gupta. In token of receipt, he has also initialed the application. In support of the aforesaid averment, a photocopy of the application has been placed on record through C.M. No.12588 of 2011 (Annexure P-6).

2. *It appears to us that the petitioner had filed the application but on account of the transfer of the Officer, the application has not been attended to. There is intrinsic evidence on record to prove the aforesaid fact from the four line order passed by District Revenue Officer-cum-Land Acquisition Collector (Annexure P-11) which reads as under:*

“According to the record and report of Kanungo Gair Marusi is not proved here that possession of Gair Marusi of Banjar is also not proved. Rather the possession of owner on the vacant land is accepted. However, the compensation to the owner is hereby being against bank guarantee.”

A perusal of aforesaid order occupancy tenancy was not proved as per the report of Kanungo. If there was no application received from the petitioner then there was no reason to record

such finding.

Therefore we do not accept the version of respondent No.4 Ajit Singh District Revenue Officer-cum-Land Acquisition Collector. The affidavit filed by him is rejected. Let a notice be issued to him for 21.9.2011 as to why appropriate proceedings be not initiated against him.

Therefore, we accept that the application was filed on 16.3.2011 (Annexure P-6) and the same sought to have been forwarded to the District Judge for adjudication.

4. In view of the above, the order dated 1.7.2011 insofar as it determines the status of the petitioner is set aside and the compensation amount which has been paid to respondent No.5 shall be kept by him and the bank guarantee should not be permitted to be encashed which will be subject to the order to be passed by the learned District Judge. The respondents No.3 & 4 shall forward the application of the petitioner dated 16.3.2011 to the learned District Judge without disputing whether it has ever been received and particularly, in view of our finding that it was listed before the District Revenue Officer-cum-Land Acquisition Collector. Accordingly, the needful shall be done by forwarding the application of the petitioner to the learned Single Judge within a period of two weeks from today. However, a separate COCP be

registered and notice be issued to respondent No.4 for 21.9.2011.

5. *A copy of the order be given to the learned counsel for the parties under the signature of the Bench Secretary.”*

In pursuance of the aforesaid order, present contempt petition was registered.

Learned counsel for writ petitioner Raj Singh submits that respondent Ajit Singh, District Revenue Officer-cum-LAC, Rohtak had personal knowledge about the fact that the writ petitioner is a tenant under respondent No.5 Satish, therefore, his application filed under Section 30 of the Land Acquisition Act, 1894 for apportionment of the possession was to be referred to the District and Sessions Judge being the adjudicating authority, however, in violation, the amount has been paid to respondent No.5.

Reply by way of affidavit of Ajit Singh, District Revenue Officer-cum-LAC, Rohtak is on record. In this affidavit, details of the applications filed by both the parties as well as detail of the award are given. It is stated that in terms of the order passed by this Court, amount is withdrawn from respondent No.5 Satish and it is now lying with the District and Sessions Judge, Rohtak. It is further stated that application of the writ petitioner under Section 30 of Land Acquisition Act, 1894 is also forwarded to the learned District & Sessions Judge and nothing was done with any malafide intention.

The writ petitioner has also filed rejoinder to the aforesaid affidavit.

This contempt petition pertains to the year 2011 and it is not disputed by the petitioner that application filed by him under Section 30 of Land Acquisition Act, 1894 has already been decided and the payment has been released.

In view of the above, no further action is called for in the present petition and the same is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

29.04.2023
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No