

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

CR-1938-2018

Date of Decision: September 01, 2023

PUNJAB SMALL INDUSTRIES AND EXPORT CORPORATION

..... Petitioner

Versus

GURCHARAN SINGH AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vaibhav Sharma, Advocate and
Ms. Salina Chalana, Advocate for the petitioner.

None for the respondents.

HARKESH MANUJA, J. (ORAL)

1. By way of present revision petition, challenge has been laid to an order dated 03.10.2017 passed by the Executing Court whereby the objections filed at the instance of petitioner judgment-debtor have been declined.

2. Briefly stating, the respondents-landowners filed an execution application seeking release of compensation, based on decision dated 19.07.2013 passed by this court in RFA-2323-2007 pertaining to the land situated in the revenue estate of Villages Abohar and Alamgarh, Tehsil and District Fazilka which came to be acquired finally vide notification dated 25.01.1995 issued under Section 6 of Land Acquisition Act, 1894 (hereinafter referred to as 1894 Act) followed by award dated 15.04.1996.

3. Learned counsel for the petitioner submits that respondents-landowners, though assailed the award dated 15.04.1996 by way of filing petition under Section 18 of 1894 Act, however, the same was declined by the Reference Court, yet the respondents-landowners while relying upon decision dated 19.07.2013 passed in RFA-2323-2007 pertaining to some

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other landowners namely, Bhajan Singh filed execution application, taking advantage of the following observations made therein:-

“The landowners are held entitled to compensation at the same rate, namely, Rs.3,50,000/- per acre. They shall also be entitled to all statutory benefits available under the Act. The award of the learned Court below is modified to that extent.”

Learned counsel further submits that specific objections were raised before the Executing Court to the effect that once there was no award passed in favour of respondents-landowners, the execution petition filed at their instance was not maintainable. He further submits that the Executing Court totally misread the observations made by this Court in its decision dated 19.07.2013 while declining the objections filed at the instance of petitioner.

4. On the other hand, despite service, none has appeared on behalf of respondents-landowners. I have heard learned counsel for the petitioner and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

5. A conjoint reading of Para 2 read with Para 12 of the decision dated 19.07.2013 passed in RFA-2323-2007 shows that the term ‘landowner’ has been used in reference to the appellant in RFA-2323-2007 and the same has not been used by referring to all the landowners pertaining to the acquisition proceedings arising out of notifications dated 22.03.1994 and 25.01.1995 issued under Sections 4 and 6 of 1894 Act. This fact can further be fortified from the manner in which the presence of counsel representing the appellant has been shown/marked in the order, wherein also the counsel has been shown to be representing the landowners, though undoubtedly he is representing merely the appellant

in the concerned appeal.

6. In view of the aforesaid, it is apparent that the Executing Court exceeded its jurisdiction while recording that the execution application was maintainable at the instance of respondents-landowners, though not being the appellants in RFA-2323-2007 having not filed the appeal for seeking enhancement of compensation.

7. In view of the discussion made hereinabove, the impugned order dated 03.10.2017 passed by Executing Court-cum-Addl. District Judge, Fazilka is hereby set aside, though clear-cut observations have been made on merits of the dispute, however, since the respondents-landowners have not been represented before this Court, the matter is remanded back for its fresh adjudication to the limited extent that in case the respondents-landowners can show their independent right or entitlement as regards their claim of enhancement, the same be considered and decided accordingly.

8. Disposed of in the above terms.

01.09.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>