

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

**(242)****CR-2137-2017****Date of Decision: 26.07.2023**

Yogesh Kumar and anr.

.....Petitioners

Versus

State of Haryana and anr.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Ms. Dakshita Deswal, Advocate, for  
Mr. Vishal Malik, Advocate, for the petitioners.

Mr. Shivendra Swaroop, DAG, Haryana.

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**HARKESH MANUJA, J.(ORAL)**

1. By way of present revision petition, challenge has been made to an order dated 10.11.2016 passed by the Executing Court-cum-Additional District Judge, Panipat, whereby, execution petition filed at the instance of petitioners/land-owners stands dismissed for want of prosecution.

2. In the present case, land owned by the petitioners was sought to be acquired vide notification dated 02.03.1993 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") followed by another notification dated 01.03.1994 issued under Section 6 thereof. The award was passed by the Collector in exercise of power conferred under Section 11 of the Act on 28.02.1996. Reference filed at the instance of petitioners/land-owners under Section 18 of the Act was decided on 18.09.2003 whereby, the market value of the acquired land was assessed @ Rs.185.60/- per square yard. The market value was further enhanced to Rs.206/- per square yard by this Court vide judgment dated 04.08.2010 passed in RFA No.4411 of 2003 (O&M) and RFA No.4674 of 2003 (O&M). Based thereupon, the petitioners/land-owners filed execution petition seeking enforcement of the Award/judgment passed in their favour. In the said

execution petition, the respondents appeared and furnished their calculations, however, on 10.11.2016, the aforementioned execution petition was dismissed for want of prosecution on the ground that the copy of the petition was not supplied by the decree holders to the judgment debtors for the last consecutive six dates of hearings.

3. Pointing out towards the order dated 31.10.2015, learned counsel for the petitioner submits that the respondents were appearing before the executing Court regularly and even furnished their calculations, thus, there was no occasion for the petitioners/decreed holders to supply a copy of the execution petition to the judgment debtors/respondents. She further submits that order dated 10.11.2016 was passed by the Executing Court in ignorance of the previous proceedings being carried out in the execution petition.

4. On the other hand, learned State counsel has tried to support the impugned order passed by the executing Court.

5. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of petitioners.

6. A perusal of the *zimni* orders attached along with the present petition show that the respondents were appearing before the Executing Court and had even furnished their calculations. The same can be easily traced out from the order dated 31.10.2015 passed by the executing Court which is reproduced as under:

“Present: Shri Rajesh Sharma, counsel for the decree-holder/petitioner.

Shri Ram Rattan, Patwari, office of HUDA, Rohtak  
for respondents no.1 and 2.

*Shri Ram Rattan, Patwari, Officer of HUDA, Panipat has furnished calculation as well proof of payment. Learned counsel for the decree-holder has stated that on the next date of hearing he will file his own calculation. Now, the case is*

*adjourned to 05.12.2015 for filing calculation on behalf of decree-holder/petitioner.*

*Sd/-  
(Virender Malik)  
ADJ/Panipat/31.10.2015”*

In view of the above, once the respondents were being duly represented by their officials before the executing Court, there was no occasion for the petitioners/decreed holders/land owners to furnish fresh copy of petition to them. Nonetheless, the executing Court rather than dismissing the execution application should have supplied a copy of the execution petition to the respondents by getting it Photostat from the original record and proceeded further with the execution proceedings by deciding further execution proceedings rather than going by technicalities..

7. Moreover, even an effort was made at the instance of petitioners so as to get the execution proceedings restored by moving an application dated 22.11.2016, was very surprisingly not accepted and the same was rejected vide order dated 23.11.2016 apparently for no valid reasons. The dismissal of restoration application is rather going to burden the State exchequer towards payment of interest which shall now be required to be released in favour of petitioners/land owners on account of delay in disbursement of compensation. Had the executing Court restored the execution proceedings on an application moved at the instance of petitioners/land owners less than 2 weeks of the order of it non-prosecution, the State could have been saved from necessarily-uncalled for liability.

7. In view of the discussion made hereinabove, present revision petition is allowed and the impugned order dated 10.11.2016 passed by the Executing Court is hereby set aside being wholly un-warranted. The Execution Case No.80/15 titled Yogesh Kumar and others Vs. Land

original number and the executing Court is requested to dispose of the execution petition at the earliest, preferably within a period of 6 months from today. Parties through their counsel/official are directed to appear before the executing Court on 11.08.2003.

- 8. Disposed of in the aforesaid terms.
- 9. Pending applications, if any, stand disposed of.

(HARKESH MANUJA)  
JUDGE

26.07.2023  
anil

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