

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2024:PHHC:034205

RFA-929-1994

Date of decision: 11.03.2024

VIDYA DEVI (DECEASED) THROUGH LRS ..Appellant
Versus
ANAND & ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tara Chand Dhanwal, Advocate
for the appellant.

Mr. Balkar Singh, Advocate
for respondent No.1, 3, 7 to 13 and 15.

ANIL KSHETARPAL, J(Oral)

1. This regular first appeal is filed against the order passed by the Reference Court while allowing reference under Section 30 of the Land Acquisition Act, 1894 (hereinafter referred to as the '1894 Act'). In other words, the dispute is with respect to the apportionment of compensation payable for the acquired land between the appellant and respondents. It has come on record that the acquired land belongs to proprietors of the village. A *Dholi* was created in favour of four brothers namely Sh. Ishari, Sh. Mula, Sh. Hazari, Sh. Kundan sons of Sh. Mathura. In the jamabandi for the year 1915-16, the land was recorded to be in possession of the aforesaid four brothers. *Dholi* is a special kind of grant given to the landless persons in lieu of the service rendered by them to the village community. Ordinarily, the *Dholi* is created for religious charitable or public service. In the jamabandi for the year 1927-28, Sh. Uday Chand was recorded to be in possession as a sub-tenant under the aforesaid four brothers. However, subsequently, in the jamabandi for the year 1943-44, the entry was recorded in favour of Smt. Parsani wife of Sh. Mula, however, there was no reason for omitting the names of three other brothers. Upon acquisition of the land, heirs of

Sh. Hazari and Sh. Kundan (two brothers) filed petition under Section 30 of the 1894 Act, which was referred to the Court. Upon appreciation of evidence, the Reference Court has held that the parties are entitled to apportion the amount of compensation in accordance with provisions of Hindu Succession Act, 1956. It may be noted here that late Sh. Ishari, one of the four brothers died issueless. His share would also come to the heirs of remaining three brothers.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. The learned counsel representing the appellant contends that in the revenue record for the year 1943-44, the name of Smt. Parsani and after her death Smt. Vidiia Devi daughter of Smt. Prasani is recorded to be in exclusive possession of the property. He submits that heirs of Sh. Hazari and Sh. Kundan have no right in the property particularly when they never challenged the entry in the revenue record.

4. This Court has considered the submissions of the learned counsel representing the parties.

5. It is evident that the appellant has failed to show any good read for changing the entry in the revenue record. The entries in the revenue records are only for updation of record. Ordinarily, these entries do not determine the right, title or interest of the parties. It was for the appellant to prove as to how she became exclusive *Dholidar* on the suit land. In absence of any justification, the entries in the revenue record, which has rebuttable presumption are liable to be ignored. It is not the case of the appellant that

Dholi was created exclusively in favour of Sh. Mula and not in favour of Sh. Ishari, Sh. Hazari and Sh. Kundan.

- 6. In these circumstances, the revenue entry would not lead to cause of action or challenge the same.
- 7. In view of the aforesaid discussion, no ground to interfere is made out.
- 8. Dismissed accordingly.
- 9. All the pending miscellaneous applications, if any, are also disposed of.

March 11th, 2024
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(ANIL KSHETARPAL)
JUDGE

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