

2024.PHHC.135986-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(107)

LPA-1663-2024(O&M)

Prem Chand & others

.....Appellant(s)

Versus

State of Punjab& others

....Respondent(s)

(2)

LPA-1712-2024(O&M)

Prem Chand

.....Appellant (s)

Versus

State of Punjab & others

....Respondent(s)

Decided on: 15.10.2024

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Amit Arora, Advocate, for the appellants.

Ms.Arundhati Kulshreshtha, AAG, Punjab.

G.S. Sandhawalia, J. (Oral) :

CM-3919-LPA-2024 in LPA-1663-2024

CM-4055-LPA-2024 in LPA-1712-2024

1. Exemption applications are allowed, as prayed for.

2. CMs stand disposed of

CM-3920-LPA-2024 in LPA-1663-2024

CM-4056-LPA-2024 in LPA-1712-2024

3. Applications for condoning the delay of 17-24 days in refiling the appeals, are allowed, in view of the averments made in the application.

Delay of 17-24 days in refiling the present appeals is hereby condoned.

4. CMs stand disposed of

LPA-1663 & 1712-2024 (O&M)

5. Consideration in LPA-1663-2024 is to the judgment dated 03.04.2024, passed by the Learned Single Judge in CWP-5783-2023 whereby the writ petitions were dismissed keeping in view the fact that the competent authority had sent a reference to the Reference Court and the amount of compensation had been deposited with the said Court, in view of the speaking order dated 17.08.2023, passed by the Land Acquisition Collector, Shahpur Kandi, Tehsil & District Pathankot.

6. Similarly, in CWP-17312-2023, from which LPA-1712-2024 arises, the same was dismissed vide order of even date on account of the above said decision and the prayer had been made for quashing the reference made under Section 76 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013.

7. Keeping in view the fact that there was a dispute regarding the apportionment of land comprising in three khewats, counsel for the appellants has attempted to convince us that there was no dispute regarding the appellants who had clear title, while referring to the revenue record, as such.

8. We are not convinced with the said argument as apparently, even from the representation of the appellants dated 08.05.2023 attached as Annexure R-4 with the reply of the State, it would be clear that the appellants were claiming to be registered owners of the acquired land falling in Village Kot Tika, Shahpur Kandi. Neither any registered sale

deed was mentioned on the basis of which they could have claimed exclusive rights.

9. The order dated 17.08.2023, passed by the authorities would go on to show that another set of 16 landowners in CWP-12651-2023 also submitted their representation for release of compensation on account of the fact that they had purchased the land which was under their possession. The LAC had noticed that the names of those petitioners mentioned at Sr. No.1 to 4 in the Jamabandi as per their respective shares and that their names also existed in the cultivation column. The present petitioners were also demanding the payment for the acquired land as per their shares, on the basis of ownership and similarly all petitioners except petitioner No.7 in CWP-12651-2023 were demanding compensation as per their share of deemed possession by way of entry of their name in the column of ownership column of the land measuring 244 kanals 2 marlas of Khewat No.13, 14 & 15. It was in such circumstances, it was held that the dispute is regarding title of the acquired land and also on account of their possession which was also recorded and title of the purchasers of the acquired land would be considered valid only if the seller/transferrors from whom they have acquired the right of ownership, had valid title. The Land Acquisition Collector, thus, could not decide the payment of compensation of the acquired land under the land acquisition proceedings and validity of seller and purchaser could be raised before the Civil Court.

10. The factum of a person in joint Khata, the transfer to be valid shall be only to the extent of his/her share in the land, is also a relevant factor which prevailed with the LAC while referring the matter to the District & Sessions Judge under Section 76 of the 2013 Act. The

interested means a person who can claim interest in compensation on account of acquisition of the land and having tenancy rights also. Section 15 also provides that any person interested in any land which has been notified under sub-section (1) of Section 11, can file his objections and under sub-clause (2), Collector has to give objector an opportunity of hearing. Similarly, under Section 21 notice is to be issued to all the persons interested and the award passed by the Collector under Section 23 also requires determination to enquire into the objections of any person interested pursuant to the notice issued under Section 21.

11. It is, thus, apparent that a large set of persons are duly affected for the land acquired measuring 244 kanals 2 marlas and it was in such circumstances, the authorities had referred the matter under Section 76 on account of a dispute which is arising out of apportionment of the same or any part thereof which is payable. Under Section 75, where there are several persons interested and only if they agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, which shall be conclusive evidence of the correctness of the apportionment.

12. It is thus apparent that the rights of all interested persons have, thus, been rightly taken into consideration by the authorities and it is settled principle that the Land Acquisition Collector cannot decide the disputed questions of law which may arise due to various disputes qua the share of the land, the title itself and the right on account of being in occupation of the land. These are disputed questions and therefore, the Learned Single Judge opted not to pass any direction in view of the alternate and efficacious remedy available. It is to be noticed that writ

Punjab & others, was also disposed of on 03.04.2024, in the same terms and no LPA has been filed against the same.

13. Accordingly, we do not find any tangible reason to interfere in the well reasoned order passed by the learned Single Judge. However, since the amount of compensation stands quantified and deposited and the reference is pending, we deem it appropriate that the Reference Court shall decide the reference petition at the earliest after hearing all the parties concerned, preferably within one year from the date of service of the concerned parties.

14. Accordingly, with the above-said directions, the present appeals are disposed of. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

15.10.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No