M.D.HPPC Ltd. & another Vs. Dharminder Singh & others

CMP No. 27788 of 2025 in RFA No. 453 of 2015

02.11.2026 **Present:** Mr. Yashveer Singh Rathore, Advocate, for the appellants/non-applicants.

Mr. Baldev Singh Negi, Additional Advocate General, for respondent No.6/State.

Mr. B.M.Chauhan, Senior Advocate with Ms. Kamakshi Tarlokta, Advocate, for the applicants in CMP No. 27788/2025.

The instant application has been filed for the grant of following reliefs:

> *"It is, humbly prayed, that the application may kindly be allowed and the appellants/non-applicants be directed to deposit the entire enhanced pro-rata compensation along with the interest and other statutory benefits under the Act as per the shares of applicants no. 1 to 8 in the aforementioned land acquired, in the interest of justice and fair play."*

As per the averments made in the application, it has been contended that the land of the applicants No. 1 to 3 and respondents No. 1 to 5 was acquired by the non-applicant/appellant through Collector, Land Acquisition, HPSEB, and the necessary award was passed on 20th May, 2011 after following the due procedure.

Feeling dissatisfied, the respondents No. 1 to 5 preferred a reference petition in the Court of learned Additional District Judge (II), Shimla, for the enhancement of amount of compensation. The reference Court accepted

the petition as filed by respondents No. 1 to 5 and enhanced the amount of compensation.

Thereafter, the non-applicants preferred RFA No. 453 of 2015 before this Court, and the same came to be decided by this Court on 25.11.2019.

It is the case of the applicants that the applicants No. 1 to 3 and late Smt. Shakuntla Devi were the co-owners in possession of the land comprised in Khata/Khatauni No. 79/160, Khasra Nos. 75, 76, 77, 78, 130, and 132, total measuring 0-19-54 hectares, situated at Mauza UP Mohal Chamsu, Tehsil Jubbal, District Shimla, H.P., along with the shares of respondents No. 1 to 5.

Precisely, it is the case of the applicants that though, admittedly, they were not the parties in the reference petition, however, being the co-owners, they are entitled to the enhancement of amount of compensation, especially in view of the law as laid down by this Court in RFA No. 455 of 2019, decided on 3rd December, 2021, which reads as follows:

> *"7. Learned counsel for the landowners referring judgments pronounced by the Supreme Court in **A. Viswanatha Pillai and others vs. Special Tahsildar for Land Acquisition No.IV and others, AIR 1991 SC 1966; Jalandhar Improvement Trust vs. State of Punjab and others, AIR 2003 SC 620**, and judgments passed by Single Benches of this Court in **Dinesh Kumar & Ors. Vs. State of Himachal Pradesh & Anr., AIR 2012 Himachal Pradesh 68; and Lesru Ram (deceased) through LR's Kalu Devi and others vs. Collector Land Acquisition NHPC and another, 2018 (4) Him. L.R. (HC) 2336**, has contended that*

every co-owner, irrespective of the fact whether he has preferred Land Reference Petition or not, is entitled for compensation of the acquired land equal to the other co-owners of the land.

8. The Supreme Court in ***A. Viswanatha Pillai's case****, has held as under:-*

> *"2. The sole question for decision is whether in a reference sought for by one of the co-owners whether the other co-owners, who did not expressly seek reference are entitled to enhanced compensation pro rata as per their shares. It is not in dispute that under the partition deed, the four brothers as coparceners kept in common the acquired property and Venkatachalam was in management thereof and each are entitled to 1/4 share in the ancient Anicut and the irrigation system. … … … … …It is true that Viswanathan and Pasupathy made such request in respect of two awards and Sabhapathy did not make any request for reference against any of the awards. But what would be the consequence in laws is the question. It is surprising that the State having acquired the property of a citizen would take technical objections regarding the entitlement of the claim. The State certainly is right and entitled to resist claim for enhancement and lead evidence in rebuttal to prove the prevailing price as on the date of notification and ask the court to determine the correct market value of the lands acquired compulsorily under the Act. But as regards the persons entitled to receive compensation are concerned it has no role to play. … … … … … … … … …It is settled law that one of the co-owners can file a suit and recover the property against strangers and the decree would enure to all the coowners. It is equally settled law that no co-owner has a definite right, title and interest in any particular item or a portion thereof. On the other hand he has right, title and interest in every part and parcel of the joint property or coparcenary under Hindu Law by all the coparceners. In Kanta Goel vs. B.P. Pathak, (1977) 3 SCR 412 : (AIR 1977 SC 1599), this Court upheld an application by one of the co-owners for eviction of a tenant for personal occupation of the co-owners as being maintainable. The same view was reiterated in Sri Ram Pasricha v. Jagannath, (1977) 1 SCR 395 : (AIR 1976 SC 2335) and (1989) 1 SCR 67 : (AIR 1989 SC 758). A co-owner is as much an owner of the entire property as a sole owner of the property. It is not correct to say that a co-owner's property was not its own. He owns several parts of the composite property alongwith others and it cannot be said that he is only a part owner or a fractional owner in the property. That position will undergo a change only when partition takes place and division was effected by metes and bounds. Therefore, a coowner of the property is an owner of the property acquired but entitled to receive compensation pro rata. The State*

would plead no waiver nor omission by other co-owners to seek reference nor disentitle them to an award to the extent of their legal entitlement when in law they are entitled to."

*9. In **Jallandhar Improvement Trust's case**, the Supreme Court, referring Viswanatha Pillai's case, has held as under:-*

> *"5. Having regard to the view we propose to take and the manner of disposal intended to be given, it is unnecessary for us to even advert to the relevance or applicability of Section 28-A of the Act to the case of the nature before us. The 4th respondent indisputably is a co-owner along with her children who were added as petitioners 2 to 5 to the award dated 5-2-1986, in which case, even on the first principles of law one co-owner is entitled to have the benefit of the enhanced compensation given in respect of the other coowners in a reference made at his instance in respect of the land acquired, which belonged to all of them, jointly. So far as the fact that in this case the 4th respondent's application for reference under Section 18 was rejected by the Tribunal ultimately on the ground that the reference was made on a belated application, does not make any difference and, is no reason, in our view, to differentiate the claims of such co-owners whose claims came to be really sustained and that of the 4th respondent, for differential treatment. We are fortified to some extent in the view expressed above, by the principles laid down by this Court in the decision reported in (AIR 1991 Supreme Court P. 1966), A. Vishwanth Pillai & Ors. V. Special Tehsildar for Land Acquisition."*

10. In similar situation, in Dinesh Kumar's case, an application filed by co-owner under Section 146 CPC, who had not filed Reference Petition or application under Section 28-A of the Act, for grant of compensation to the extent of their shares by enforcing the award passed in favour of other co-owners was dismissed by learned District Judge and the dismissal of the application was assailed in this High Court. This Court, after taking into consideration judgments passed by the Supreme Court in A.Viswanatha Pillai's and Jalandhar Improvement Trust's cases, has set aside the order of dismissal passed by the District Judge by holding that co-owners were entitled for enhanced pro rata compensation alongwith interest and other statutory benefits such as solatium etc. under the Act, according to their share in the acquired land, by observing as under:-

> *"9. Thus, it is more than clear that even a cosharer who has not sought reference to the court is entitled for enhanced compensation pro rata in accordance with his share in the acquired land.*
> *… … … …*
>
> *11. Thus, it is manifest that the claim for enhanced compensation by a co-owner at par with other co-*

> *owners in whose favour an award has been 11 passed is based on his own right as a co-owner irrespective of any claim for re-determination of the amount of compensation on the basis of award of the court under Section 28-A of the Act."*
>
> *11. Similar view has been taken by another Coordinate Bench of this Court in Lesru Ram's case supra, 2018 (4) Him. L.R. (HC) 2336.*
>
> *12. In the light of aforesaid settled exposition of law, plea of the appellants that they are liable to pay enhanced compensation with respect to share of only those landowners who had preferred Reference Petitions and other co-owners of the same land are not entitled for enhanced compensation, is not tenable and, thus, rejected and all co-owners, irrespective of fact that they have neither preferred Reference Petitions nor filed application under Section 28-A of the Act, are entitled for enhanced pro rata compensation alongwith all statutory benefits like other co-owners who had preferred Reference Petitions or have been awarded compensation under Section 28-A of the Act, according to their right in the acquired property on the basis of their share."*

The said exposition of law has not been disputed by the learned counsel for the non-applicants.

It has been stated by the learned Senior Counsel that, for the time being, the application should be treated to have been filed only on behalf of applicants/respondents No. 1 to 3.

Consequently, in view of the law as laid down by the Coordinate Bench of this Court in RFA No.455 of 2019, the findings as returned in the said appeal/proceedings shall be applicable to the present application *mutatis mutandis*.

In view of the observation as made here-in-above, the present application is allowed and the non-applicants/appellants are directed to deposit the

enhanced amount of compensation qua the shares of applicants No. 1 to 3 positively within a period of three months from today.

It is contended by Ms. Kamakshi Tarlokta, Advocate, that she may be granted liberty to withdraw the instant application on behalf of applicants No. 4 to 8, with liberty to file an application afresh through proper legal heirs. Liberty granted.

With these observations, the present application stands disposed of.

(Romesh Verma)
Judge

November 2, 2026 *(*Nisha)