

2026:PHHC:072424



RFA No.1533 of 2005 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RFA No.1533 of 2005 (O&M)
Date of Decision:08.05.2026

RAJ KUMAR AND OTHERS

.....Appellants

Vs

LAL CHAND AND OTHERS

....Respondents

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

Present: Mr. J.S. Cooner, Advocate
for the appellants.

Mr. Ashok Kumar Khubbar, Advocate
for respondent nos.1 to 3.

HARKESH MANUJA, J. (Oral)

[1]. By way of present appeal, challenge has been laid to the order dated 12.04.2005 passed by the learned Additional District Judge, Ambala (hereinafter to be referred as the '*Reference Court*') whereby the Reference petition under Section 30 of the Land Acquisition Act, 1894 (for short '*the 1894 Act*') preferred at the instance of the private respondent nos.1 to 3 was partly accepted.

[2]. In the present case, the dispute relates to the estate left by the deceased Kishna, who was owner in possession of certain land forming part of the two revenue estates of villages Rampur and Dhakila, Tehsil and District Ambala which was acquired vide Notifications dated 31.07.1996 and 30.07.1997 issued under Sections 4 & 6 of the 1894 Act, respectively, followed by passing of Award under Section 11 of the 1894 Act by the Land Acquisition Collector (for short '*the LAC*') on 28.07.1999.



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[3]. The dispute with respect to the apportionment of the compensation was raised at the instance of private respondent Nos.1 to 3 while claiming themselves to be the stakeholders to the extent of $\frac{4}{5}$ th share in the acquired property having asserted that the Mohinder Singh, predecessor in-interest of appellants herein was entitled for only $\frac{1}{5}$ th share in the compensation.

[4]. The aforesaid claim was opposed at the instance of the appellants while stating that there was a Will dated 18.01.1984 executed by the deceased Kishna in their favour with respect to his entire landholdings.

[5]. Upon framing of issues, the learned Reference Court vide its order dated 12.04.2005 adjudicated upon the claim of the respective parties by accepting the plea raised on behalf of the private respondent nos.1 to 3. The relevant part of therefrom is extracted hereunder:-

“16. The reference is answered with the observation that the petitioners are entitled to $\frac{4}{5}$ share in equal shares and respondents are entitled to $\frac{1}{5}$ share in equal shares of the amount of compensation in respect of the acquired land measuring 1 kanal 6 marlas situated in village Dhakila and 16 Kanals 8-1/2 marlas in village Rampur belonging to the deceased Kishna. The amount of compensation be paid accordingly to the petitioners and the respondents which has been deposited by the LAC in the Court.”

CONTENTION(S):-

ON BEHALF OF THE APPELLANT(S):-

[6]. Learned counsel for the appellants submits that the learned Reference Court erred having recorded that the private respondent nos.1 to 3 were entitled for grant of compensation to the extent of $\frac{4}{5}$ th share in the entire acquired land pertaining to the revenue estate of village Rampur as well as Dhakila. He points out that the Civil Suit No.6/CS of 1984 titled ‘*Lal Chand and other Vs. Mohinder deceased through his LRs*’ filed at the instance of respondent nos.1 to 3 against the



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appellants, wherein the validity of Will dated 18.01.1984 was assailed, the land comprised in khasra Nos. 12//11/1 (4-0) and 196 (1-11) out of the total land measuring 56 Kanal 11 Marla, situated in the revenue estate of village Rampur was not detailed and therefore, the findings recorded by the learned trial Court in the said suit vide judgment and decree dated 15.10.1996; judgment and decree dated 19.02.2001 (Ex.C-1 and Ex.C-2) by the learned First Appellate Court and also the decision dated 17.05.2003 passed by this Court in RSA No.1173 of 2001 (Ex.C-3) with respect to the said property being ancestral in nature in the hands of deceased Kishna was not to be made applicable on the said khasra numbers as the same did not form part of the land details of the suit property therein.

[6.1]. Learned counsel also points out that the learned Reference Court also fell in error for holding respondent nos.1 to 3 to be entitled for 4/5th share in the acquired land forming part of revenue estate of village Dhakila regarding which no suit was ever filed by respondent nos.1 to 3 and thus, the same being succeeded by the appellants in terms of Will dated 18.01.1984, the compensation was to be paid to them. No other argument has been raised on behalf of the appellants.

ON BEHALF OF RESPONDENT(S):-

[7]. Per contra, learned counsel for respondent nos.1 to 3 submits that the non-inclusion of khasra Nos. 12//11/1 (4-0) and 196 (1-11) in total land measuring 56 Kanal 11 Marla in the civil suit filed at the instance of respondent nos.1 to 3, assailing the validity of Will dated 18.01.1984 was merely a typographical error, however, the same formed part of the revenue estate of village Rampur and was to be treated as ancestral in the hands of deceased Kishna on the basis of findings recorded in the previous litigation as detailed above.

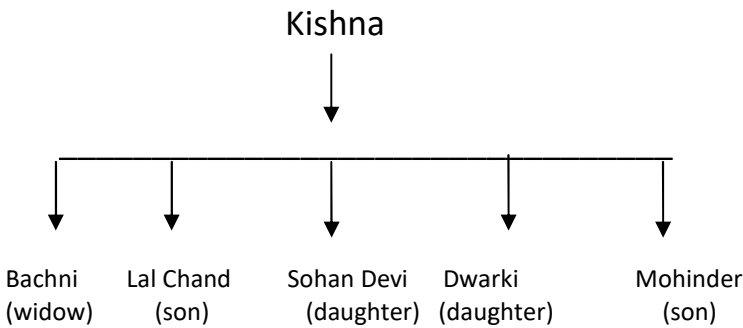


[7.1]. Learned counsel further contends that with respect to the land forming part of the revenue estate of village Dhakila having been bequeathed in favour of the appellants by the deceased Kishna; no Will was ever produced on record, as such, the findings recorded by the learned Reference Court being based on proper appreciation of the evidence calls for no interference and respondent nos.1 to 3 were rightly held entitled for 4/5th share in the acquired land from the estate left by deceased Kishna. He thus prays that the present appeals was liable to be dismissed. No other argument has been raised on behalf of respondent nos.1 to 3.

DISCUSSION AND REASONING:-

[8]. I have heard learned counsel for the parties and gone through the paper book.

[9]. The pedigree table which is relevant for the adjudication of the case in hand is extracted hereunder:-



[10]. From the records, it can be discerned that the issue in the case in hand pertains to the estate of deceased Kishna. One of his sons, Mohinder, claimed rights over entire the estate on the basis of a Will dated 18.01.1984, purportedly executed by deceased Kishna in his favour. The said Will was challenged by respondent nos.1 to 3 having filed a suit for declaration. The said suit was decreed by the learned trial Court vide judgment and decree dated 15.10.1996. Although the validity of Will dated 18.01.1984 was recorded in favour of the beneficiary-



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Mohinder, however, while holding the property in the hands of deceased Kishna to be of ancestral nature, it was held that the deceased testator was not competent to execute any Will regarding the same, as such, respondent nos.1 to 3 were held entitled for $\frac{4}{5}$ th share of the estate left by deceased Kishna and the appellants were held entitled for $\frac{1}{5}$ th share thereof.

[11]. The aforesaid judgment and decree dated 15.10.1996 passed by the learned trial Court was challenged before the First Appellate Court in Civil Appeal No.12 of 2000. The same was dismissed vide judgment and decree dated 19.02.2001. Relevant portion of the said decree which has been proved on record as Ex.C-2 is extracted hereunder:-

“Suit for declaration to the effect that the Will deed No.185, dated 18.1.1984 of an ancestral property, qua, the plaintiffs is illegal, void, ultravires and forged and is not binding upon the plaintiffs in any manner whatsoever and the defendant has no right, to interfere into the right, title, interest into the peaceful possession, management and control of the plaintiffs into the property i.e. half share measuring 56 Kanals 1 Marlas comprised in Jamabandi for the year 1978-79 of village Rampur, H.B. No.155, khewat/khatauni no.102/135, khasra no.198 (1-11), 407 (0-2), khewat/khatauni No.103/136/137. Khasra No.8//20 (5-19), 9//25 (3-3), 12//20/2 (6-1), khewat/khatauni no.104/138/139, khasra no.12/1 (8-0), 12/10 (8-0), khewat/khatauni No.105/140, Khasra No.12/11//2 (4-0), 8/21 (8-0), 11/5 (7-10), total land measuring 56K 1M situated in village Rampur, alongwith other immovable property, such as house Kuraries, and movable property even through if the will is proved to have been executed by the deceased Shri Kishna, (though the plaintiffs categorically deny the execution thereof) the same is not binding upon the plaintiffs, the property being an ancestral one and the Will is the result of undue influence, fraud and misrepresentation as the deceased Sh. Krishna was not in a stage of health to execute the will being seriously ill under Order 7 Rule 1 C.P.C.

MEMORANDUM OF APPEAL



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The defendants above named appeal to the Addl. District Judge, Court at Ambala from the decree of the court of Shri S.K. Gupta, the then Civil Judge (Senior Division), Ambala City, in the above suit, dated the 15.10.1996, for the following reasons, namely as mentioned in the grounds of appeal.

This appeal coming on for hearing 16th day of February, 2001, before me (A.K.S. Panwar), Addl. District Judge, Ambala for final disposal, in the presence of Shri Phool Singh, counsel for the appellants Mohinder Singh etc. and Shri Jagir Singh, counsel for the respondents Lal Chand etc. as to costs. It is ordered that the appeal has been dismissed”.

[12]. Still aggrieved, the appellants preferred RSA No.1173 of 2001, however, the same was also dismissed by this Court vide judgment dated 17.05.2003 (Ex.C-3).

[13]. In the meanwhile, some portion of the land forming part of revenue estates of villages Rampur and Dhakila came to be acquired vide Notifications dated 31.07.1996 and 30.07.1997 issued under Sections 4 & 6 of the 1894 Act, respectively, followed by passing of Award under Section 11 of the 1894 Act by the LAC on 28.07.1999. Based on the aforesaid litigations, respondent nos.1 to 3 were held entitled for 4/5th share of the suit property described thereunder. However, a perusal of the judgment and decree dated 19.02.2001 (Ex.C-1 and Ex.C-2) shows that the land comprised in khasra Nos. 12//11/1 (4-0) and 196 (1-11) forming part of the revenue estate of village Rampur was never the subject matter of the previous litigation and, therefore, it could not be presumed that with respect to the said khasra numbers, the nature of property was to be presumed as ancestral in the hands of deceased Kishna.



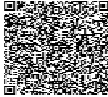
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[14]. Accordingly, in the aforementioned two **khasra Nos. 12//11/1 (4-0) and 196 (1-11)** from the revenue estate of village Rampur, the appellants alone shall be entitled for award of the entire amount of compensation on the basis of Will dated 18.01.1984; its validity been upheld in the previous litigation. Whereas with respect to the remaining acquired land forming part of the revenue estate of village Rampur which was the subject matter of previous litigation and its nature been held to be ancestral in the hands of deceased Kishna, the appellants being the legal heirs of deceased Mohinder shall be entitled for 1/4th share of the compensation whereas, respondent nos.1 to 3 shall be entitled for 4/5th part thereof.

[15]. Further, about some part of the acquired land pertaining to the revenue estate of village Dhakila, the appellants were held entitled for 1/4th share of compensation whereas respondent nos.1 to 3 were held entitled for 4/5th share thereof. Although a plea was set up by the appellants that the entire estate left by deceased Kishna including the land forming part of revenue estate of village Dhakila was also inherited by their predecessor-in-interest Mohinder Singh by virtue of Will dated 18.01.1984 from his father-Kishna, however, the said Will does not form part of the records of the present appeal and as such in the absence thereof, the claim made by the appellants about the entire amount of compensation as against the land forming part of revenue estate of village Dhakila cannot be accepted.

[16]. In view of aforesaid discussion, the present appeal is partly accepted. The decision dated 12.04.2005 passed by the learned Reference Court is modified only to the extent that besides the entitlement held by the learned Trial Court, the entire amount of compensation as against acquisition of land comprised in khasra Nos. 12//11/1 (4-0) and 196 (1-11) forming part of revenue estate of village

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Rampur shall be released to the appellants (successors of deceased Mohinder son of Kishna) and the private respondents shall be entitled for the remaining compensation.

[17]. Pending application(s), if any shall also stand disposed of.

May 08, 2026
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(HARKESH MANUJA)
JUDGE

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