

(2016) 06 SHI CK 0153

In the High Court Of Himachal Pradesh

Case No : Civil Revision No. 86 of 2008.

Jay Pee Himachal Cement Project - Revisionist @HASH Daya Ram s/o Sh. Najru and Others - Non-revisionists

Date of Decision : 29-06-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 23 Rule 3

Citation : (2016) ILRHP 2275

Hon'ble Judges : P.S. Rana, J.

Bench : Single Bench

Advocate : Mr. S.M. Goel, Advocate, for the Revisionist; Mr. Virender Thakur, Advocate, for the Non-Revisionist Nos. 1 to 3; Mr. M.L. Chauhan, Addl.A.G. with Mr. R. K. Sharma, Dy. A.G, for the Non-Revisionist Nos. 4 and 5

Final Decision : Disposed Off

Judgement

Mr. P.S. Rana, J. - Order:

Present civil revision is filed against the order dated 21.02.2008 passed by learned Additional District Judge Solan (H.P.) in miscellaneous application No. 53-S/6 of 2008 filed in reference petition No. 11-S/4 of 2006 title Daya Ram and others v. M/s. Jai Parkash Associates Ltd. and others.

Brief facts of the case:

2. Land Reference Petition No. 11-S/4 of 2006 title Daya Ram and others v. M/s. Jai Parkash Associates Ltd. and others is pending adjudication in the Court of learned Additional District Judge Solan (H.P.). Vide notification dated 11.04.2015 under Section 4 of Land Acquisition Act land was acquired for establishment of Jay Pee Himachal Cement Project. In pursuance to notification award No. 5/2005 was passed on 28.01.2006 by Land Acquisition Collector-cum-Sub Divisional Officer (Civil) Arki Distt. Solan (H.P.). Learned Collector granted compensation amount at the rate of Rs. 2,10,000/- (Rupee two lac ten thousand) per bigha for cultivated land. Learned Collector granted compensation amount at the rate of Rs. 40,369/- (Rupee forty thousand three hundred sixty nine) per bigha for

uncultivated land. Feeling aggrieved against award passed by learned Collector S/ Sh. Daya Ram s/o Sh. Narju Ram, Ram Lal s/o Sh. Hiru and Roshni Devi w/o Sh. Hiru filed reference petition under Section 18 of the Act. It is pleaded that after filing of reference petition matter was amicably settled inter se parties with regard to compensation amount by way of out of Court settlement. It is further pleaded that by way of out of Court settlement Jay Pee Himachal Cement Project agreed to pay enhanced compensation amount at the rate of Rs. 4,25,000/- (Rupee four lac twenty five thousand) per bigha qua cultivated land and at the rate of Rs. 1,25,000/- (Rupee one lac twenty five thousand) per bigha qua uncultivated land. It is pleaded that thereafter application under Order 23, Rule 3 CPC was filed before learned Additional District Judge Solan (H.P.) for disposal of reference petition as per terms and conditions of compromise but same was dismissed by learned Additional District Judge Solan (H.P.) on dated 21.02.2008. Feeling aggrieved against the order Jay Pee Himachal Cement Project filed present revision petition.

3. Court heard learned Advocate appearing on behalf of revisionist and learned Advocates appearing on behalf of non-revisionists. Court also perused the entire record carefully.

4. Following points arise for determination :

(1) Whether civil revision petition is liable to be accepted as mentioned in memorandum of grounds of revision petition?

(2) Final Order.

Findings upon Point No. 1 with reasons.

5. It is proved on record that applications of similar nature were also rejected and thereafter CMPMO No. 511 of 2009, CMPMO No. 512 of 2009, CMPMO No. 515 of 2009, Civil Revision No. 77 of 2008 to Civil Revision No. 79 of 2008, Civil Revision No. 81 of 2008 to Civil Revision No. 85 of 2008, Civil Revision No. 87 of 2008, Civil Revision No. 88 of 2008, Civil Revision No. 91 of 2008 to Civil Revision No. 100 of 2008, Civil Revision No. 102 of 2008 to Civil Revision No. 104 of 2008 were filed before Hon"ble High Court.

6. It is proved on record that thereafter Hon"ble High Court on 16.07.2014 passed order on similar applications and quash the order relating to dismissal of applications and passed the following directions: (1) That Court shall decide the applications afresh in accordance with law. (2) That Court shall decide the issue, record its satisfaction about the execution if any of the agreement/compromise having entered into between the parties and will also record its legality and validity. (3) That Court would afford adequate opportunity for leading evidence if so required by the parties. (4) That Court would decide the applications and the main petition itself expeditiously. It is expedient in the ends of justice to pass similar order in present civil revision petition in order to avoid conflicting orders. Point No. 1 is decided accordingly.

Point No. 2 (Final Order)

7. In order to avoid conflicting orders it is held that order passed by Hon''ble High Court in petitions cited supra also mutatis mutandis would apply to present civil revision No. 86 of 2008. In view of above stated facts order dated 21.02.2008 passed by Additional District Judge Solan (H.P.) is set-aside with following directions: (1) That Court shall decide the application under Order 23, Rule 3 CPC afresh in accordance with law. (2) That Court shall decide the issue and would record its satisfaction about the execution if any of the compromise having entered into between the parties and will also record its legality and validity. (3) That Court would afford adequate opportunity for leading evidence if so required by the parties. (4) That Court would decide the application under Order 23, Rule 3 CPC and main petition itself expeditiously within three months from today as reference petition is pending since 2006 and requires expeditious disposal. (5) Parties are directed to appear before learned Additional District Judge Solan (H.P.) on 27.07.2016. File of learned Additional District Judge Solan (H.P.) along with certified copy of order be sent back forthwith for compliance. Civil Revision Petition No. 86/2008 is disposed of. Pending application(s) if any also disposed of.