

(1983) 08 P&H CK 0107
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 2460 of 1983

Manjit Singh and others

APPELLANT

Vs

The Tribunal Constituted Under the Town Improvement Act,
Jalandhar and others

RESPONDENT

Date of Decision : 11-08-1983

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1983) 08 P&H CK 0107

Hon'ble Judges : S.S. Sandhawalia, J;S.C. Mital, J

Bench : Division Bench

Advocate : M.L. Sarin, for the Appellant; T.S. Gujral with Mr. Satinder Bhullar for Respondent No. 2 and 3, for the Respondent

Judgement

S.C. Mital, J. and S.S. Sandhawalia, C.J.—Fact giving rise to this writ petition are that the land belonging to Kala Singh, father of Manjit Singh petitioner, was duly acquired for the Jalandhar Improvement Trust and the compensation awarded was at the rate of Rs. 330/- per marla. Kala Singh died on 26th January. 1979. He had executed a registered will dated 27th December, 1978 in favour of Manjit Singh and other petitioners. As beneficiaries under the will, they sought a reference u/s 18 of Land Acquisition Act for enhancement of compensation. By its award Annexure P-1, the Tribunal constituted under the Town Improvement Act, enhanced the compensation to Rs. 1,000/- per marla but deprived the petitioners from receiving it with the following observations :--

The land originally belonged to Kala Singh father of Manjit Singh petitioner. Manjit Singh, his wife Beant Kaur and his children Gursewak Singh and Amarjot Singh have set up their case as being legal heirs of Kala Singh on the basis of will Ex. A1 executed by Kala Singh on 27.12.1978. This will was proved by its attesting witness Amar Singh (A.W-3). During cross-examination Manjit Singh admitted that Kala Singh had left behind four sons and three daughters besides his widow. In view of the factum that other natural heirs of Kala Singh were not

arraigned as parties in these proceedings, no finding can be given about the genuineness of the Will. Thus the above referred compensation shall not be released in favour of the present petitioners unless they produce the decision or letter of Administration of the will from the Civil Court in support of their claim.

2. Learned counsel for the petitioners contended that the Tribunal had no jurisdiction to impose the above mentioned condition inasmuch as none of the other heirs of Kala Singh had claimed apportionment of the compensation at any stage of the proceedings. It was also urged that the other sons of Kala Singh are settled abroad and if at any stage they or any other heir of Kala Singh claimed apportionment of compensation, they were well protected by the third proviso to sub-section (2) of section 31 of the Land Acquisition Act, dealing with the payment of compensation. The said proviso reads :

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled there to.

Lastly the learned counsel for the petitioners urged that the petitioners would furnish security to the satisfaction of the Tribunal with regard to the share of compensation which may be lawfully claimed by the other heirs of Kala Singh. It goes to the credit of the learned counsel for the respondents that he did not object to the payment of compensation to the petitioners on the said condition. It is ordered accordingly. This writ petition stands disposed of. No order as to costs.