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**(2004) 07 P&H CK 0126**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Regular First Appeal No. 2883 of 2002

Prem Chand

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision :** 15-07-2004

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10  
Land Acquisition Act, 1894 — Section 18, 50(2)

**Citation :** (2004) 3 CivCC 326 : (2004) 2 ILR (P&H) 504 : (2004) 138 PLR 326 :  
(2005) 1 RCR(Civil) 499

**Hon'ble Judges :** Hemant Gupta, J

**Bench :** Single Bench

**Advocate :** B.P. Singla, for the Appellant; Ashok Aggarwal, A.G. and N.S.  
Bhinder, Distt. Attorney, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Hemant Gupta, J.—The Paragon Coop. Group Housing Society Limited, the applicant in Civil Misc. No. 4591-CI of 2003, and The Ind. Bank Staff Coop Group Housing Society Ltd., the applicant in Civil Misc. No. 2243-CI of 2003, have moved the present applications under Order I Rule 10 read with Section 151 of the CPC for impleading said applicants as respondents in the present appeal.

2. The present appeal arises out of award dated 7.5.2002 announced by the Additional District Judge, Panchkula, in a Reference u/s 18 of the Land Acquisition Act, 1894 (hereinafter to be referred as "the Act")- Vide notification dated 20.1.1990, land measuring 132.1 acres of village Kund was sought to be acquired vide notification u/s 4 of the Act, The land was acquired by way of a notification dated 25.1.1991 u/s 6 of the Act for a public purpose, namely, for development and utilisation of land as residential and commercial area for Section 20, Panchkula under the Haryana Urban Development Authority Act, 1977.

3. The applicants have sought to be imp leaded in the present appeal on the

ground that the Haryana Urban Development Authority has formulated Group Housing 90 scheme for allotment of plots to Group Housing Societies. The applicants are the Societies which have been allotted plots by the Haryana Urban Development Authority and in terms of conditions of letter of allotment, the applicants are liable to make payment of enhanced compensation. Therefore, the applicants are the persons interested in determination of the amount of compensation and, thus, necessary and proper parties in the present appeal.

4. The learned counsel for the applicants relied upon *Union of India (UOI) Vs. Sher Singh and Others*, ; *U.P Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) by L.Rs. and another, etc. etc.*, ; *Union of India and others Vs. Special Tehsildar (ZA) and others*, ; and *M/s. Neyveli Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyveli and others*, to contend that the applicants are the persons interested as the land was acquired by the Haryana Urban Development Authority for development of residential and commercial area. The applicants are Group Housing Societies which have been allotted plots by the Haryana Urban Development Authority. In terms of letter of allotment, the burden of enhanced compensation is to fall on the applicants and therefore the applicants, are the proper parties. It was contended that the applicants are the beneficiaries of the acquisition and, therefore, in terms of the judgments referred to above the applicants are interested both in the title to the property and also in the compensation to be paid and, therefore, both the applications deserve to be allowed.

5. I am unable to agree with the arguments raised by learned counsel for the applicants. The person interested has been defined in Section 3(b) of the Act. Under the scheme of the Act, the authorities under the Act are under obligation to hear objections on behalf of any person interested in terms of Section 5A of the Act as well as a notice to determine the compensation under Sections 9 and 11 of the Act. The applicants are not the persons interested till such date as the applicants are alien to acquisition proceedings. Similarly, the applicants are not the persons interested to seek reference u/s 18 of the Act. There is no occasion for the applicants not to accept the award rendered by the Land Acquisition Collector. The applicants have sought to derive right to be impleaded as party on the basis of language of Section 50(2) of the Act. However, before proceeding further, it would be relevant to reproduce Section 50 of Act which reads as under:-

"50. Acquisition of land at cost of a local authority or Company:- (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of any incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference u/s 18."

6. Under the scheme of the Act, land can be acquired by the State Government for a public purpose which includes acquisition for a local authority or a Corporation owned or controlled by the State Government or for the benefit of a company. u/s 50(1) of the Act, it is contemplated that where the land is being acquired at the cost of any fund controlled or managed by a local authority or of any company, the charges of any incidental to such acquisition shall be defrayed from or by such fund or company. Since the charges are to be defrayed by or from the fund of such local authority or a company, Sub-section (2) of Section 50 of the Act contemplates that such local authority or a company may appear before the Collector or the Court and adduce evidence for the purposes of determining the amount of compensation. It is provided that no such local authority or company shall be entitled to demand a reference u/s 18 of the Act. It is, thus, apparent that the local authority or a company who is to defray the expenses of acquisition alone can appear and adduce evidence for the purposes of determination of compensation and not a total stranger to the acquisition, such as the applicants. The applicants are neither the owner nor acquisition has been made for the benefit of the applicant's co-operative society. The acquisition is for the benefit of a local authority i.e. Haryana Urban Development Authority a local authority under the Haryana Urban Development Authority Act, 1977. It is that authority alone who is to defray the expenses on acquisition in terms of Section 50 of the Act and is entitled to adduce evidence for the purposes of determining the amount of compensation.

7. In all the cases referred to by the learned counsel for the applicants, the persons interested are the local authorities corporations or company for whose benefit the land was acquired who have been ordered to be impleaded as a party to the proceedings for determination of compensation. In *Sher Singh's* case (supra), the land was acquired for the purposes of National Security Guard as desired by the Union of India. It was held that the Union of India is an interested person for determination of the amount of compensation.

8. In *Neyveli Lignite Corporation Ltd. Vs. Rangaswamy and Others*, land measuring 5200 acres was acquired for the benefit of Neyveli Lignite Corporation Limited, a Govt. of India enterprise, for industrial and commercial exploitation of the lignite deposits in certain areas of Tamil Nadu, Initially, the petitioner filed writ petition challenging the acquisition proceedings as notice u/s 20(b) of the Act was not issued. A Full Bench of the Madras High Court in *Neyveli Lignite Corporation Ltd's* case (supra) held that the beneficiary in whose benefit the lands are acquired by the Government are not entitled to be treated as parties to the land acquisition proceedings. However, the appeal was allowed by the Supreme Court in *M/s. Neyveli Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyveli and others*, , and it was held that Section 50(2) of the Act gives to the local authority or the company right to adduce evidence before the

Collector or in the reference u/s 18 of the Act. It was further held that right given under Sub-section (2) of Section 50 of the Act is in addition to and not in substitution of or in derogation to all the incidental logical and consequential rights flowing from the concept of fair and just procedure consistent with the principles of natural justice. Thus, it was held that the appellant is a proper party if not a necessary party. The denial of the right to a person interested is in negation of fair and just procedure offending Article 14 of the Constitution.

9. Similarly, in U.P. Awas Evam Vikas Parishad's case (supra), the acquisition was again by a Board constituted u/s 3 of the U.P. Awas Evam Vikas Parishad Adhiniyam, 1965, wherein the Court deduced the following conclusion:-

"1. Section 50(2) of the L.A. Act confers on a local authority for whom land is being acquired a right to appear in the acquisition proceedings before the Collector and the reference court and adduce evidence for the purpose of determining the amount of compensation.

2. The said right carries with it the right to be given adequate notice by the Collector as well as the reference court before whom acquisition proceedings are pending on the date on which the matter of determination of compensation will be taken up.

3. The proviso to Section 50(2) only precludes a local authority from seeking a reference but it does not deprive the local authority which feels aggrieved by the determination of the amount of compensation by the Collector or by the reference court to invoke the remedy under Article 226 of the Constitution as well as the remedies available under the L.A. Act.

4. In the event of denial of the right conferred by Section 50(2) on account of failure of the Collector to serve notice of the acquisition proceedings, the local authority can invoke the jurisdiction of the High Court under Article 226 of the Constitution.

5. Even when notice has been served on the local authority the remedy under Article 226 of the Constitution would be available to the local authority on grounds on which judicial review is permissible under Article 226.

6. The local authority is a proper party in the proceedings before the reference court and is entitled to be impleaded as a party in those proceedings wherein it can defend the determination of the amount of compensation by the Collector and oppose enhancement of the said amount and also adduce evidence in this regard.

7. In the event of enhancement of the amount of compensation by the reference court if the Government does not file an appeal, the local authority can file an appeal against the award in the High Court after obtaining leave of the Court.

8. In an appeal by the person having an interest in the land seeking enhancement of the amount of compensation awarded by the reference court,

the local authority should be impleaded as a party and is entitled to be served notice of the said appeal. This would appeal to an appeal in the High Court as well as in this Court.

9. Since a company for whom land is being acquired has the same right as a local authority u/s 50(2) whatever has been said with regard to local authority would apply to a company too."

10. A perusal of the said conclusion, infact, clearly shows that the applicants are total strangers to the acquisition proceedings and does not satisfy any of the conditions required.

11. In Special Tehsildar (ZA)'s case (supra), the land was acquired for Rocket Launching Station at Sriharikota of Indina Space Research Organisation, Department of Space. It was held that the Department of Space can be impleaded as a party in appeal arising out of decision of the reference court. Thus, in all the cases referred to the Supreme Court has allowed the local authority or a company for whose benefit the land was acquired to be impleaded in the proceedings pending determination of the amount of compensation. But since the applicants are strangers to the acquisition proceedings and have no direct nexus with the acquisition of the land or for payment, the applicants are neither necessary nor proper parties.

12. Learned counsel for the applicants also submitted that the issue whether the person interested is entitled to file appeal or not is pending consideration before the Full Bench of this Court in LPA No. 31 of 1990. In the said case, vide order dated 28.11.1990 the matter was referred to the larger Bench of 5 Judges as the three member Bench found that Full Bench judgments of this Court as *Indo Swiss Time Limited v. Umrao* (1981)83 P L R 335 and *Kulbhushan Kumar & Co. v. State of Punjab*. (1983)85 P L R 768 require reconsideration. When the matter was placed before the Bench of 5 Judges, the matter was adjourned to await the judgment of Hon''ble Supreme Court in *Neyveli Lignite Corporation Ltd.*'s case. Hon''ble Supreme Court has since decided the said matter in the judgment as *Neyveli Lignite Corporation Ltd. v. Special Tehsildar (Land Acquisition) Neyveli and Ors.*, (1995)1 Supreme Court Cases 221, wherein it has been held that the local authority of company for whose benefit land is required is a proper party. It may, however, be noted that the judgments of this Court as (1981)83 P.L.R. 335 and (1983)85 P.L.R. 768 have been specifically reversed by the Hon''ble Supreme Court in *Sher Singh's case* (supra). Thus, the reliance of the applicants on pending reference is misconceived.

13. Consequently, both the applications are dismissed with no order as to costs.