
(2003) 11 P&H CK 0075

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision Petition No. 571 of 1984

Raghunath Parshad and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 12-11-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2004) 136 PLR 416 : (2004) 1 RCR(Civil) 702

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : Adarsh Jain, for the Appellant;

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—This revision petition is directed against order dated 12.1.1984 passed by Additional District Judge, Faridabad in Execution Case No. 129 of 1980.

2. The petitioners claim that they were perpetual lessees of land comprised in khasra No. 679 situated within the revenue estate of Faridabad which was acquired by the State of Haryana u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act). In the reference application filed by the land owners (respondents No. 3 and 4) for enhancement of compensation awarded by the Land Acquisition Collector, learned District Judge, Gurgaon after taking into consideration the statement made by their counsel passed award dated 21.1.1974 vide which he declared that the proprietors of the land were entitled to capitalised value assessed at 20 times of the rental value and the remaining compensation shall be payable to the lessess. This is borne out from para 50 of the judgment which is reproduced below:

"It was conceded by Sh. Vidya Sagar, counsel for the proprietors that there was no lease deed or any term providing for payment of whole compensation of the land comprised by khasra Nos. 726 and 727 in case No. 232 of land comprised by khasra No. 679 in case No. 227 of land comprised by Khasra Nos. 417, 420,

422 and 423 in case No. 293. It is thus obvious that the proprietors of the land comprised by these khasra Nos. shall be entitled to capitalised value, assessed at 20 times the rental value and the remaining compensation shall be payable to the lessees. I purpose to allow the proprietors the capitalized value at 20 times the rental value and not a specific proportion of the compensation in view of the fact that they shall continue to receive the rental value every year by way of interests on the amount payable to them calculated at the rate of 5 per cent per annum as if the land had not been acquired."

3. After about 6 years the petitioners filed execution petition against the State or Haryana and the Land Acquisition Collector for grant of compensation in terms of judgment dated 21.1.1974 of District Judge, Gurgaon. During the pendency of the execution application, respondents No. 3 and 4 filed an application dated 17.4.1982 with the prayer that payment of enhanced compensation to the lessesses may be deferred because the counsel, who had appeared on their behalf in the reference case, did not have the instructions to make concession in favour of the lessees. The petitioners filed reply dated 24.4.1982 and contested the application filed by respondents No. 3 and 4. They also filed another petition on 2.4.1983 stating therein that the Executing Court did not have the jurisdiction to go behind the decree. Respondents No. 3 and 4 filed reply dated 16.7.1983 pleading therein that the application filed by the petitioners was not maintainable.

4. After hearing counsel for the parties, learned Additional District Judge, Faridabad declined to decide the execution application filed by the petitioners by observing that vide order dated 1.5.1982, a direction had been given to pay the entire decretal amount to the land owners subject to their furnishing bank guarantee and they had withdrawn the amount after furnishing the required bank guarantee and that the reference application filed by the lessees u/s 18 of the Act was pending.

5. Shri Adarsh Jain, leaned counsel for the petitioners argued that the reasons assigned by the learned Additional District Judge for refusing to decide the execution petition on merits are legally unsustainable because the right of the petitioners to receive compensation had already been determined by the learned District Judge vide judgment dated 21.1.1974 and that judgment had become final. Learned counsel submitted that even if the reference application filed by the petitioners is dismissed, they cannot be deprived of their legitimate right to receive compensation in terms of judgment dated 21.1.1974. He then argued that the Executing Court did not have the jurisdiction to directly or indirectly go into the legality of judgment dated 21.1.1974 passed by learned District Judge, Gurgaon in the reference application filed by respondents No. 3 and 4.

6. I have considered the arguments of the learned counsel and find merit in them. It has not been suggested on behalf of the respondents that judgment dated 21.1.1974 passed by learned District Judge, Gurgaon in the reference application filed by respondent No. 3 and 4 had been reviewed, modified or annulled and the direction contained therein for payment of compensation to the

land owners by taking into consideration the capitalised value assessed at 20 times of the rental value and for payment of the remaining compensation to the lessees had been set aside. Therefore, the mere pendency of the reference application filed by the petitioners could not be a ground for refusing to decide the execution application on merits or for issuance of a direction by the Executing Court to pay the entire compensation to the land owners, i.e., respondents No. 3 and 4. In my view, the learned Executing Court was bound by the terms of judgment dated 21.1.1974 and was bound to decide the execution application of the petitioners on merits and its indirect refusal to do so amounts to failure to exercise jurisdiction vested in the Executing court.

7. Hence, the revision petition is allowed. The order impugned in the revision petition is set aside and the case is remanded to the Executing court with the direction that the execution petition filed by the petitioners be decided on merits in accordance with law.

8. The parties are given liberty to bring to the notice of the Executing Court the developments which may have taken place during the pendency of the revision petition before this Court.