

(2010) 01 P&H CK 0069
In the Punjab And Haryana At Chandigarh

Sadhu Ram and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 21-01-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151, 153
Constitution of India, 1950 — Article 227
Land Acquisition Act, 1894 — Section 18, 19

Citation : (2010) 158 PLR 445

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Land owners Sadhu Ram etc. have filed the instant revision petition under Article 227 of the Constitution of India assailing order dated 5.2.2008 passed by learned Additional District Judge, Kurukshetra.

2. Land of the petitioners was acquired by respondent-State of Haryana vide award No. 13 dated 22.2.1991 passed by Land Acquisition Collector. The petitioners filed reference petition u/s 18 of the Land Acquisition Act, 1894 (in short, "the Act") for enhancement of compensation of their acquired land mentioned in the said reference petition. The learned Additional District Judge vide award dated 17.5.1993 enhanced the compensation of the acquired land. In first appeal preferred by the land owners, this Court further enhanced the compensation. In letters patent appeal, the compensation was further enhanced by this Court. Execution petition filed by the petitioners for recovery of the enhanced compensation amount was disposed of as fully satisfied on payment of the enhanced compensation amount.

3. The petitioners thereafter filed fresh execution petition alleging that their land measuring 86 marlas being share in rectangle No. 31 khasra No. 13 min. (4-12) and another 13 min. (3-0) was not included in statement u/s 19 of the Act sent by Land Acquisition Collector. The petitioners claimed enhanced compensation for

the said land as well.

4. Respondent resisted the aforesaid execution petition alleging that the award sought to be executed does not relate to land of khasra No. 13 rectangle No. 31 for which enhanced compensation is being claimed by the petitioners.

5. Learned executing court i.e. learned Additional District Judge, Kurukshetra vide impugned order dated 5.2.2008 has dismissed the execution petition. Feeling aggrieved, the land owners have preferred the instant revision petition.

6. I have heard learned Counsel for the parties and perused the case file.

7. Learned Counsel for the petitioners vehemently contended that u/s 19 of the Act, it was the duty of the Land Acquisition Collector to have sent details of the entire acquired land of the petitioners when reference petition filed by the petitioners u/s 18 of the Act was sent by the Land Acquisition Collector to the District Judge and therefore, on account of lapse of the Land Acquisition Collector, the petitioners should not suffer.

8. The aforesaid contention although apparently attractive is bereft of any merit. It was not the fault of the Land Acquisition Collector but it was the fault of the petitioners themselves because in the reference petition they described their land for which they wanted reference petition to be sent to the District Judge u/s 18 of the Act and admittedly in the said reference petition, land of khasra No. 13 for which enhanced compensation is now claimed was not mentioned. The Land Acquisition Collector accordingly sent the details of the land for which the petitioners themselves had filed petition u/s 18 of the Act. Consequently, Land Acquisition Collector cannot be said to be at fault. On the other hand, the petitioners have to blame themselves for the situation in which they find themselves.

9. Learned Counsel for the petitioners in support of his aforesaid contention relied on judgment of the Hon"ble Apex Court in the case of Ram Kumar and Ors. v. Union of India and Ors. J.T. 1991(1) S.C. 582. However, the facts of the said case were completely different from the facts of the instant case. In that case the land owners while describing their land in the schedule annexed with their petition u/s 18 of the Act had mentioned khasra numbers and area and at the end mentioned "etc. etc.". Thus, it was apparent from the details of land submitted in that case by the land owners that they had not given full description of their acquired land for which petition u/s 18 of the Act had been filed. In this view of the matter, it was the duty of the Land Acquisition Collector in that case to have sent the complete details of the acquired land of the land owners who had filed petition u/s 18 of the Act. In the instant case, however, the petitioners themselves gave complete description of their land for which they wanted reference to be made to the District Judge u/s 18 of the Act. Secondly, in the case of Ram Kumar (supra) Additional District Judge decided the reference petition u/s 18 of the Act vide judgment dated 15.1.1971 and the land owners filed application under sections 151 and 153 of the CPC on 16.1.1971 i.e. on the

next day of the passing of judgment by the Additional District Judge. In the instant case, however, Additional District Judge decided the reference petition u/s 18 of the Act vide award dated 17.5.1993 whereas the instant execution petition was instituted on 12.11.2005 i.e. 12-1/2 years after the passing of the award by the Additional District Judge in reference petition filed by the petitioners u/s 18 of the Act. Not only that, the petitioners even filed first appeal and letters patent appeal in this Court and execution petition filed by the petitioners for enhanced compensation amount relating to land mentioned in petition u/s 18 of the Act was disposed of as fully satisfied on payment of enhanced compensation amount as demanded by the petitioners. It was much thereafter that the instant execution petition claiming compensation for the land of khasra No. 13 which was not there in petition u/s 18 of the Act was filed. Consequently, judgment in the case of Ram Kumar (supra) does not come to the rescue of the petitioners herein.

10. Learned Counsel for the petitioners next contended that the petitioners are only co-sharers in the land of khasra No. 13 and since other co-sharers have been awarded enhanced compensation for land of said khasra No. 13, the petitioners as co-sharers are also entitled to same enhanced compensation even without filing reference u/s 18 of the Act. In support of this contention, reliance has been placed on judgment of this Court in the case of Furkan Ali v. State of Haryana and Ors. (2007) 145 P.L.R. 474. This contention also cannot be accepted in the instant case because the contention is completely beyond pleadings and evidence. There is no material on record to depict that other co-sharers of khasra No. 13 have received enhanced compensation. This plea was neither raised in the execution petition nor in evidence nor in arguments before the executing court. Consequently, this plea which involved factual determination as well cannot be raised for the first time in the instant civil revision petition.

11. For the reasons recorded hereinabove, I find no merit in the revision petition which is accordingly dismissed.