

(2013) 07 P&H CK 0079

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 1116 of 2013 (O&M)

Satpal Singh and Another

APPELLANT

Vs

Subhash Chander and Others

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Citation : (2014) 173 PLR 800

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The revision is against dismissal of an objection taken at the stage of execution before the Executing Court when

compensation awarded and a reference u/s 18 by the Reference Court was sought to be recovered by the decree holder. An objection was made

by the third party contending that the amount could not be granted to the decree holder and that he has right in the property. Counsel states that the

judgment has been rendered by this Court in Parveen Malhotra Vs. State of Haryana and Others, that the executing Court will hear an objection

from any person who is affected by the award. I am afraid that I shall not be in a position to accord to such an understanding of law. The said

judgment has referred to two decisions of the Supreme Court; 1) Dr. G.H. Grant Vs. State of Bihar, . In that case the issue was whether after

fixing compensation it could refer a question of apportionment u/s 30 of the Act if the right to compensation for the land acquired had devolved

upon the State. The Court held that a dispute between the private party and the State regarding the conflicting claims could be referred u/s 30 of

the Act and that the State could seek for a reference u/s 30. This judgment has absolutely nothing to do with a power of the Executing Court to

adjudge on the apportionment. Yet another judgment referred to Sharda Devi Vs. State of Bihar and Another, and the question raised that the

State could acquire its own land where an adjudication u/s 30 would include a reference to be made u/s 30, The Supreme Court held that the State

is not a person interested as defined u/s 3(b) of the Land Acquisition Act. It was a government land and there was no question of initiating an

acquisition proceedings at all. In either one of the cases referred to above there is no issue regarding the power of Executing Court to adjudge on

the apportionment of title or invite a reference from the Collector. An executing Court, it is an axiomatic, shall not traverse beyond the decree and

allow for objections to be made against the valid execution of the decree otherwise than in the procedure laid down under Order 21 Rules 97 to

103 CPC itself. If a third party has a right in the money which has been awarded by the Court, it shall be only under an adjudication made u/s 30

of the Land Acquisition Act. A reference u/s 30 is a right which a person can obtain on an objection taken when the award was made by the

Collector. The reference again shall be made only by the collector and cannot be applied by an executing court through any flat that reference must

be made u/s 30. Executing Court shall stay within confines to execute the award against the judgment debtor for a money which is already

assessed by the court. This point is also illustrated by several decisions and I may only refer to two decisions of the Supreme Court that have

considered powers was Executing Court in the light of the provisions of the Land Acquisition Act itself in Bai Shakriben (dead) by Natwar

Melsingh and Others Vs. Special Land Acquisition Officer and Another, and Jaya Chandra Mohapatra Vs. Land Acquisition Officer, Rayagada,

that the Executing Court will not traverse beyond the decree.

2. The objection at the stage of execution by the third party was correctly dismissed and there is no cause for re-opening the case. Counsel for the

petitioner is at liberty to work out independent means of seeking a reference if such a course is permissible before any other court/forum. I make

no pre-judgment of whether such a claim is possible at this stage. The revision petition is dismissed.