

(1999) 08 P&H CK 0186
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3398 of 1982

Sumitra alias Santra and Others

APPELLANT

Vs

Dharambir Singh and Others

RESPONDENT

Date of Decision : 04-08-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1999) 123 PLR 541

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : J.L. Malhotra, for the Appellant; A.S. Tewatia, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sudhalkar, J.—By this revision petition, the petitioners have impugned the order of the District Magistrate (competent authority), Gurgaon dated 31.8.1982 Annexure P-2, Respondents No. 1 and 2 had made an application before the competent authority upon which the impugned order was passed. It was an application to the Tehsildar, Gurgaon against the payment of compensation to the petitioners. The pedigree table of Ram Mehar upon which the petitioners reply is as below:-

Ram Pat		Ram Mehar		-----				
Kalawati Ved		Sajjan Singh		-----				
Samitra alias		Sunita		Santra (widow)		(minor daughter)		

Narbir Ram Dai		Smt. Krishna Smt. Nirmal Smt. Dharsan Singh		Singh (Widow)				
(daughter)		(daughter)		(daughter)		(Son)		(Son)

2. In that application, aforementioned respondents No. 1 and 2 had prayed that they were the sole representatives of Ram Mehar and the compensation under the Land Acquisition Act may be disbursed to them and not to others. The Tehsildar directed the parties to appear before the competent authority. The

competent authority directed the parties to get their case decided from the competent Court of law regarding legal representatives and their share. Being aggrieved by the said order, the petitioners have come in this revision petition challenging that order.

3. I have heard the learned counsel for the parties.

4. The maintainability of the revision petition is not in dispute and, therefore, I am not deciding that question. Learned counsel for the petitioners argued that the executing Court cannot look into the question that some other parties are necessary parties. It is also contended that respondents No. 1 and 2 are not the sole heirs of Ram Mehar and petitioners have got the rights as heirs of Ram Mehar and they were also entitled to the share and they cannot be deprived of their share and, therefore, the order of the competent authority is without jurisdiction and the same deserves to be set aside. It can be seen that though the impugned order is dated 31.8.1982, there is another judgment of this Court Annexure P-1 dated 10.10.1980, which has been relied upon by the competent authority. In the judgment Annexure P-1, respondents 1 and 2 were petitioners. Present petitioners No. 1 and 2 were respondents No. 3 and 4 in that case. It appears that petitioner No. 3 is the same was Vidya Wati respondent No. 2 in Judgment Annexure P-1. It is a judgment of civil revision No. 2092 of 1979. It was the contention of respondents No. 1 and 2 that compensation amount cannot be denied to them and that the compensation be apportioned between the legal heirs of deceased Ram Mehar as under:-

"(i) Hanuwant Singh through Dharambir, Narvir, sons Darshan and Nirmal, daughters and Ramdevi, widow in equal shares. 1/3rd

(ii) Vidyawati d/o Ram Mehar 1/3 shares

(iii) Sajjan Singh deceased through Sumitra alias Santra widow and Sunita daughter." 1/3 shares

5. In that case, this Court allowed the petition and objections of respondents 2 to 4 were dismissed. It was held that the dispute was obviously between the heirs of Ram Mehar whose estate was represented by respondents No. 1 and 2 during the appeal and the judgment debtors have no interest whatsoever in that dispute. It was also held that the question between the heirs of the deceased could not be covered by the provisions of Section 47 of the CPC and the remedy of the present petitioners to establish their right of share in the compensation was only by way of a regular suit. Looking to this judgment of this Court, there appears to be nothing wrong in the impugned order Annexure P-2 passed by the competent authority. Even, the competent authority has mentioned in the impugned order that during the course of arguments, it was established that legal proceedings were going on in the Court for the establishment of share in the compensation and of the estate of Ram Mehar deceased. The learned counsel for the petitioners, on asking by this Court, has stated that he does not know as to what was the result of the suit.

6. In view of the above reasons, there appears to be no merit in this revision petition and the same is hereby dismissed.