
(1999) 10 P&H CK 0084

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision Nos. 4804, 4895 and 4911 of 1999

Union of India

APPELLANT

Vs

Chajju Ram

RESPONDENT

Date of Decision : 07-10-1999

Acts Referred:

Citation : (2000) 2 ICC 61 : (2000) 1 RCR(Civil) 449

Hon'ble Judges : Swatanter Kumar, J

Advocate : Mr. M.S. Sandhu, Advocates., Mr. Anil Rathee, Advocates for appearing Parties

Judgement

Swatanter Kumar, J.

1. The department of telecommunication as well as Senior Superintendent, Post Offices, Patiala Division, both on behalf of Union of India have assailed the orders dated 1.9.1999 and 25.9.1999 passed by the learned Additional District and Sessions Judge, Patiala in the above three revision petitions. The learned Counsel appearing for the petitioners formulated his submissions for the consideration of the Court as follows :

(i) The learned executing Court has dismissed the objections of the petitioners, without proper application of mind;

(ii) The objection filed on behalf of the defence department were pending and during the pendency of such objections the accounts of the petitioner could not be attached; and

(iii) The abovesaid two departments were neither a party in the reference petitions nor the land had been acquired for their benefit. They are stranger to the matter in controversy and, as such they have no direct or indirect liability towards the claimants.

2. In order to repel these submissions, learned Counsel appearing for the claimantsrespondents argued that the present petitions were barred by the

principle of res judicata in view of the order passed by the High Court dated 28.5.1999 in Civil Revision No. 2613 of 1999. They further contended that their lands were acquired as back as on 30.9.1990 and award in their favour was passed by the learned Additional District Judge, Patiala on 6.4.1998 and the first appeal preferred by the claimants was decided by the High Court on 1.4.1999 enhancing the amount of compensation. But till today they have not been able to get even the compensation awarded to them by the learned Additional District Judge. Thus, they contended that the objections were nothing but an abuse of the process of the Court.

3. Facts in detail hardly need be narrated. The facts stated by the learned Counsel for the respondents herein (claimants) are not in issue. The departments of Telecommunications and Post Office, as aforenoticed, had filed objections to the proposed attachment of their accounts for payment of the claim to the landowners. They had raised some contentions, as aforenoticed. The learned Additional District Judge vide aforestated orders dated 1.9.1999 impugned in Civil Revision Nos. 4911 of 1999 and 4804 of 1999 and dated 25.9.1999 impugned in Civil Revision No. 4895 of 1999, dismissed these objections and ordered the Senior Superintendent, Post Offices, Patiala Division, as well as the Accounts Officer Telecommunication to remit the amount of compensation before 8.10.1999. The learned Judge observed as under :

"Now these objection petition seems to have been filed by the Department only to delay and avoid the payment of money. The departments are the property of Union of India and as such the recoveries in question can be effected from the accounts of the above said departments. Accordingly, the objection petitions filed in all the cases referred above are dismissed and directions are given to the Senior Supdt. of Post Offices, Patiala and the Accounts Officers/TRA Branch, Department of Telecommunication to remit the amounts on or before 8.10.1999. In case some other authority is competent to operate the accounts, then the abovesaid officers should write to this court so that those authorities are directed to operate the accounts and to remit the amounts."

4. The counsel for the claimants, as already noticed, have placed reliance upon the order passed by the High Court on 28.5.1999 in Civil Revision No. 2613 of 1999 where a revision petition filed by the Defence Estate Officer, Chandigarh, on behalf of Union of India was dismissed with the following observations :

"Therefore, the order attaching the account and properties of the Departments of the Union of India is not beyond jurisdiction, nor the same is illegal. However, it is made clear that if the Union of India is willing to pay compensation and satisfy the awards, it may approach the executing court for appropriate orders. If any application in this regard is made, the executing Court will consider the same as per law.

With the above observations, these civil revisions stand disposed of."

5. It is true that the Defence Estate Officer, Chandigarh, had filed a revision

against the order passed by the learned Additional District Judge dated 11.5.1999 vide which objections filed by that department on somewhat similar line were dismissed. It would be doubtful if the order of the High Court dated 28.5.1999 would operate as *res judicata* against the present petitioners, inasmuch as, the order was passed on the application of a different department and no larger ground other than pleaded by the Defence Estate Officer in the earlier revision. With regard to Article 77 of the Constitution of India and Section 80 of the Code of Civil Procedure, it was contended that in the domain of the Union of India/Central Government, each ministry is responsible for a definite field/department. Secretary of that department or ministry acts in the name of the President of India and his acts alone bind the Union of India. Inaction or omission on the part of the Defence Estate Officer cannot prejudicially affect the interest of the other independent ministries/departments like the department of Telecommunication and postal authorities. The decreeholder can execute his rights arising from the decree only against the department, who was party to those proceedings. In this context, reference was also made to the cases of *V. Padmanabhan Nair v. Kerala State Electricity Board*, AIR 1989 Kerala 86, *State of Punjab v. Tripta Rani and another*, A.I.R. Punjab and Haryana 252 and *Dhian Singh Sobha Singh and another v. Union of India*, AIR 1958 Supreme Court 274.

6. On the other hand, learned Counsel appearing for the decreeholder respondents contended that the Union of India is one single unit and legal entity. Thus, any decree passed against any one of the departments of the Union of India is enforceable against all the departments/ministers of the Union of India and, as such, the order of attachment of accounts of Telecommunication or postal authorities is valid and suffers from no error of jurisdiction.

7. However, I do not feel the need to discuss this controversy or determining the same on merits, in view of the proposed course of action, which the Court proposes to adopt and stated hereinafter.

8. It remains a hard fact that the land of the claimants had been acquired nearly 9 years back and they have not been paid the compensation awarded to them by the court of learned Additional District Judge, Patiala, despite the fact that the regular first appeals have already been decided against the Union of India and compensation payable to the claimants has been enhanced. The learned Counsel appearing for the claimants, of course, pressed that as the judgment of the High Court in the Regular First Appeals has not been stayed by the Hon'ble Letters Patent Bench in the Letters Patent Appeals preferred by the claimants as well as the State, they are entitled to receive the compensation granted by the High Court in the Regular First Appeals. I am of the considered view that once the Letter Patent Appeals are pending before the Letters Patent Bench and notice on stay has been issued to the opposite party, it will not be appropriate for this Court to enforce the recovery of enhanced amount granted to the claimants in the Regular First Appeal. Learned counsel appearing for objectors while making a reference to some dispute raised by the Union of India to the claim of the

claimants referred to the claim of Parkash Chand who has claimed a sum of Rs. 12,70,329/ as compensation payable to him as per the award of the learned District Judge but according to Union of India Defence Estate Officer only Rs. 8,17,497/ are payable to the claimant and as such they have contended that before these objections are decided, for the recovery of amount the attachment could not be ordered.

9. This problem has to be looked into on a broader perspective following the settled precepts as in such cases while executing decree the Court must strive to balance law and equities in favour of both the parties as on the one side public money is involved and on the other the payment of compensation to the claimants whose land had been acquired long time back, is not being disbursed.

10. Thus I would issue following directions to be complied with by all concerned within the stipulated time prescribed hereinafter :

1. Within 30 days from today the Union of India through Defence Estate Officer, Chandigarh, shall deposit the amount of compensation admitted by the Union of India, payable to the claimants. This amount would be the amount which has been awarded under the judgment of the learned Additional District Judge, Patiala while answering references under Section 8 of the Land Acquisition Act;

2. In the event, the claimants, according to the Union of India, are claiming higher amount than the one awarded by the learned Judge, or in other words, if any dispute arises on account of the amounts being not admitted by the Union of India, the objections in that regard shall be positively decided within two months from the date of passing of this order, by the learned executing Court.

3. The orders so passed by the learned executing Court shall be executed and the balance amount shall be deposited in furtherance thereto within 15 days from the passing of the order.

4. The enhanced amount of compensation awarded to the claimants in Regular First Appeal, would be recoverable subject to the orders passed by the Hon"ble Letters Patent Bench in the appeal(s) preferred by the parties.

5. The claimants would be entitled to all statutory benefits as granted by the learned Additional District Judge in accordance with law and the payment thereto would also be made in the above manner.

6. The orders under revision shall, thus, remain stayed for a period of 3 months from today and on the expiry of the said period and in the event of default on the part of Union of India the learned executing Court shall be at liberty to pass such appropriate order as it may deem fit and proper in the facts and circumstances of the case in accordance with law and, therefore, till that time the orders attaching the accounts of the two departments, i.e. Telecommunication and Postal authorities would remain stayed;

7. The Defence Estate Officer who apparently has failed to disburse even the

admitted compensation, is hereby directed to take all steps in coordination with all other relevant departments of Union of India and ensure compliance of this order without fail.

8. In the event, the admitted compensation is not deposited within 30 days from today, the accounts of Defence Estate Officer and that of the Ministry of Defence as well as of the department(s) for whose benefit the land was acquired, shall be attached to the extent of the amount of compensation awarded by the learned Additional District Judge (inclusive of the amount, if any, deposited by the Union of India). In addition thereto, all the concerned officer(s)/official(s) shall be liable to be proceeded against for violating the orders of the Court under the provisions of the Contempt of Court Act. It is made clear that none of the authorities concerned would obstruct or delay, in any manner whatsoever, the execution of the above direction.

11. I am compelled to say that the present objections are certainly an abuse of the process of law and any of the concerned departments of the Union of India could have easily paid the compensation payable to the claimants simultaneously proceeding on the decision of its objections(s) in accordance with law. The intention appears to be more of depriving the claimants of their legitimate rights rather than to contest a legally sustainable litigation. As the claimants have been forced to meet these objections on repeated rounds of litigation I think it appropriate, while disposing of the revision petition, to award costs to the respondents herein. The mere fact, that is, various wings or departments of the State or Union of India cannot act in coordination or harmony with each other, cannot be permitted to be an impediment for the execution of the decree passed by the Court of competent jurisdiction in accordance with law. It is for the Government to set its house in order and defend its litigation within the four corners of law. The abuse of the process of law has an inevitable result of infringing the benefit or party determined in accordance with law.

12. Resultantly, all these revision petitions are disposed of with the above direction. The claimants (respondents herein) would be entitled to get costs of Rs. 100/ each which shall be recovered from the erring officer(s)/ official(s) by granting them opportunity in accordance with law.