

## Mohinder Singh Vs Shri Uttam Singh and others

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** May 20, 1988

**Acts Referred:** Constitution of India, 1950 " Article 227

**Hon'ble Judges:** Amrit Lal Bahri, J

**Bench:** Single Bench

**Advocate:** Lakhinder Singh, for the Appellant; Y.P. Khullar for A.G. Pb., for the Respondent

**Final Decision:** Allowed

### Judgement

A.L. Bahri, J.

Vide this petition filed under Article 227 of the Constitution of India, Mohinder Singh petitioner prays for quashing of

orders, Annexures P.1 and P.2 passed by the Land Acquisition Collector, S.Y.L., Patiala. Mohinder Singh obtained a decree from the Court of

Sub Judge, Kharar on September 9, 1982 that the land allotted in Village Rora was ancestral property and his father Uttam Singh, respondent No.

1, could not alienate the same. In appeal, on the understanding given by Uttam Singh that he will not alienate the land measuring 11 Killas, which

was in cultivating possession of Mohinder Singh and that Mohinder Singh will not interfere with the possession of Uttam Singh in another land, the

suit was dismissed as withdrawn. Out of aforesaid 11 Killas of land, 2 3/4 Killas of land comprising in Khasra Nos. 25/12, 19, 22/1 were

acquired on September 18, 1985 for S.Y.L. Canal. On March 15, 1986, an application was filed by Mohinder Singh before the Land Acquisition

Collector praying for the compensation of the land acquired to be paid to him or in the alternative to refer the dispute to the District Judge. The

Land Acquisition Collector passed orders, Annexures P. 1 and P. 2, first granting 2/3rd of compensation and thereafter the remaining 1/3rd

compensation to Uttam Singh. These are two orders under challenge. Notice of the petition was given to the respondents. Nobody has put in

appearance on behalf of Uttam Singh and Sukhvinder Singh son of Uttam Singh. The Land Acquisition Collector is represented. I have heard

learned counsel for the parties.

2. Shri Lakhinder Singh, learned counsel for the petitioner, during the arguments produced copy of the application which was moved by Mohinder

Singh before the Land Acquisition Collector and is dated March 15, 1986. His contention is that the dispute having been raised to the amount of

compensation to be fixed in the award to be made by the Land Acquisition Collector and its disbursement, it was incumbent upon the Land

Acquisition Collector to make a reference u/s 30 of the Land Acquisition Act to the District Judge. The Land Acquisition Collector was not

competent to decide the objections/application summarily as has been done vide orders, Annexures P.1 and P.2. I have given due consideration to

this argument and I find merit therein. Vide order, Annexure P.1, the Land Acquisition Collector prima facie coming to the conclusion that

Mohinder Singh at the most could dispute compensation to the extent of 1/3rd of the land acquired ordered that 2/3rd of the compensation be paid

to Uttam Singh and adjourned the proceedings to May 22, 1986. On that day Mohinder Singh did not put in appearance nor he produced any

evidence. Thus he ordered that remaining 1/3rd of the compensation be paid to Uttam Singh who was recorded in the Jamabandi as being in

cultivating possession of the land acquired. When the application was filed, the Land Acquisition Collector had not announced the award

determining compensation for the land acquired which was done on 19th March, 1986 (Award No. 69/R-SYL). No doubt, when the application

was filed by Mohinder Singh, the award had not been announced. However, it is clear that at the time the award was announced, application of

Mohinder Singh was already before the Land Acquisition Collector wherein a claim was made to the compensation for the acquired land by

disbursement or in the alternative to refer the case to the District Judge for determination. Section 30 of the Land Acquisition Act reads as under:-

30. Dispute as to apportionment. When the amount of compensation has been settled u/s 11, if any dispute arises as to the apportionment of the

same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision

of the Court.

3. A bare perusal of the aforesaid provision would reveal that when amount of compensation has been settled and a dispute arises as to the

apportionment, the Collector is to refer such a dispute to the decision of the Court. This course was not adopted by the Land Acquisition Collector

on the simple ground that on the adjourned date of hearing, i.e. May 22, 1986, Mohinder Singh did not put in appearance nor he led any evidence.

As a matter of fact, Land Acquisition Collector was not called upon to determine the dispute between the persons claiming apportionment of the

compensation for the land acquired. It was incumbent upon him to refer the dispute to the Court. Thus quashing the orders, Annexures P. 1 and P.

2, a direction is given to the Land Acquisition Collector to make a reference u/s 30 of the Land Acquisition Act to the Court. The revision petition

is accordingly allowed. There will be no order as to costs in this petition.