

(2009) 07 P&amp;H CK 0076

## High Court Of Punjab And Haryana At Chandigarh

Case No: None

State of Punjab and Others

APPELLANT

Vs

Dilbhajan Singh

RESPONDENT

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**Date of Decision:** July 24, 2009**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Section 151, 152, 153
- Constitution of India, 1950 - Article 227
- Land Acquisition Act, 1894 - Section 18, 19, 4, 6

**Citation:** AIR 2009 P&H 184 : (2009) 156 PLR 252**Hon'ble Judges:** Sham Sunder, J**Bench:** Single Bench**Final Decision:** Dismissed

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**Judgement**

Sham Sunder, J.

This revision-petition is directed against the order dated 20.05.1996, rendered by the Court of Additional District Judge, Bathinda, vide which it allowed the application under Sections 151 and 152 read with Section 153 CPC, for correction/amendment in the land reference as well as in the Award/Judgment, in which the description/quantity of the area acquired, was mentioned inadvertently incorrect.

2. Dilbhajan Singh son of Arjan Singh, filed a land reference, u/s 18 of the Land Acquisition Act, 1894, for enhancement of compensation for his entire acquired property including the residential house, orchard and land, though the same as well as the khasra numbers and the area acquired, could not be correctly described by the Counsel, in the same due to inadvertence or some typographical mistake. While appearing as AW-10, in the case, before the Court, Dilbhajan Singh, described that his land measuring 10-1/2 acres alongwith residential house and orchard was acquired for the establishment of Engineering College, regarding which enhancement was sought. Since the correct khasra numbers, the extent of land, and

the extent of other property acquired, could not be mentioned, in the land reference, u/s 18 of the Land Acquisition Act, the same mistake occurred in the Award, which was passed by the Court of Additional District Judge, Bathinda, in the land reference, referred to above. Accordingly, an application was moved by Dilbhajan Singh for the correction of khasra numbers, the extent of the land, etc. etc. in the land reference, as also in the Award, passed by the Additional District Judge, Bhatinda.

3. The application was contested by the respondent, by filing written reply, wherein, it was admitted that the application was correct to the extent that the applicant, in his own statement, described that his 10.5 acres land was acquired for Engineering College. It was, however, stated that since the correction sought to be made, by way of an application, by the applicant, could not be said to be falling within the purview of Sections 151 and 152 read with Section 153 of the Code of Civil Procedure, the same could not be allowed.

4. After hearing the Counsel for the parties, and, on going through the documents, placed on record, the trial Court allowed the application, vide the order impugned.

5. Feeling aggrieved, the instant revision petition, has been filed, by the State of Punjab/revision petitioner.

6. I have heard the Counsel for the revision-petitioner and have gone through the documents, on record, carefully.

7. The Counsel for the revision-petitioner, submitted that, it was not clerical or typographical mistake, which occurred, in the land reference and the Award, passed by the Additional District Judge, Bhatinda, which was sought to be corrected. He further submitted that once the Award was passed, by the Additional District Judge, Bhatinda, in land reference, u/s 18 of the Land Acquisition Act, 1894, the same could not be amended/corrected. He further submitted that the order impugned was illegal and, thus, liable to be set aside.

8. After giving my thoughtful consideration, to the contentions, raised by the Counsel for the revision-petitioner, in my considered opinion, the revision-petition, deserves to be dismissed, for the reasons to be recorded hereinafter. There is, no dispute, between the parties that correct khasra numbers, and the correct extent of land and other property of the applicant/respondent, which were acquired, were recorded in the Award, passed by the Collector. The land and other property of the applicant, which was acquired, was also correctly mentioned in the notification under Sections 4 and 6 of the Land Acquisition Act, 1894. The applicant (now respondent) could only claim enhancement of compensation, in respect of the land, which was acquired, by the Authorities concerned, and, in relation whereeto, the award was passed by the Collector. He could not claim enhancement of compensation, in an application; u/s 18 of the Land Acquisition Act, 1894, in respect of some other land, which had not been acquired, and Award with regard whereeto,

had not been passed, by the Collector. If, on account of the negligence, or inadvertent mistake of the Counsel for the applicant/respondent, the correct khasra numbers of the land and the extent of property, which belonged to the respondent, and which were acquired, were not mentioned, in the land reference u/s 18 of the Land Acquisition Act, and that mistake perpetuated while passing the award, in the land reference, then the same could be got corrected by way of filing an application under Sections 151, 152 and 153 of the Code of Civil Procedure. The procedure is, in the ultimate, the handmaid of justice, meant to advance its cause, than to thwart the same. When the substantial justice, and the procedural wrangles, are pitted against each other, then the former will prevail over the latter. If incorrect khasra numbers and the extent of land, which had not been acquired, by the authorities concerned, were mentioned by the counsel for the applicant/respondent, in the land reference, for enhancement of compensation, then he could not be blamed. In similar circumstances, in case *Ram Kumar and Ors. v. Union of India and Ors.* 1991(2) All ILLR 18, this Court took the view that only those khasra numbers which were specifically mentioned in the schedule, could alone be considered for the purpose of enhancement of the claim of compensation, and not the entire land acquired. This Court, ultimately, took the view that, the drily conclusion possible was that enhancement was restricted to the land, in dispute, and the land in dispute, could only be such land, in respect of which, reference was demanded by the claimants. However, the Apex Court reversed the findings of this Court, and held that it was a simple matter, to be decided, on the basis of actual statement, made in the application. It was further observed by the Apex Court, that it was fully convinced that the appellants had sought a reference, for the entire land, acquired, - and there was no reason, whatsoever, in leaving out some portion of the land, when the grievance of the appellant was for the enhancement of compensation, which was awarded at low rate. It was further observed that the Collector, while making reference u/s 19 of the Land Acquisition Act was required to give the particulars of the entire land and the agriculturist whose land, is acquired may not be fully conversant with the khasra numbers and area as mentioned in the revenue record, and the Union of India and the State acquiring such land should not be allowed to take any advantage of such ignorance of the agriculturist. In *Siri Ram v. State of Haryana and Ors.* 1988(1) All Ind LLR 69 where against the award of the Collector, the petitioner filed reference u/s 18 of the Land Acquisition Act, which was decided by the Additional District Judge, Karnal. This Court held that it was for the Additional District Judge, to determine the exact area acquired by the Land Acquisition Collector, and then to allow the claimant the amount of compensation. In my opinion, the Court below was right, in coming to the conclusion, mat such a correction, which was sought by the respondent, in the land reference, as also in the Award, passed by the Land Reference Court, fell within the purview of Sections 151 and 152 read with Section 153 of the Code of Civil Procedure. It was not the amendment of the Award, which was carried out, by the Court below. It was only the correction of the land, and the khasra numbers, which were incorrectly given in the

reference petition, as also incorrectly incorporated in the award, passed by the land reference Court, as the same were inconsistent with the land acquired, which was mentioned in the Award, passed by the Collector, as also in the notifications u/s 4 and 6 of the Land Acquisition Act, that was sought and granted. The order impugned, is neither illegal nor suffers from any material irregularity, nor perversity and, therefore, the same does not warrant any interference, by this Court, in its revisional jurisdiction under Article 227 of the Constitution of India.

9. For the reasons recorded above, the revision-petition, being devoid of merit, must fail, and the same is dismissed.