

(9) In the result, we allow the writ petitions, quash the resolution dated 3rd December, 1990 passed by Gram Panchayat and also the permission granted by the State Government for the sale of land. The petitioners shall have their costs which are assessed at Rs. 5,000.

J.S.T.

Before Hon'ble M.S. Liberhan & Sat Pal, JJ

HARI KISHAN--Petitioner

versus

STATE OF HARYANA & OTHERS--Respondents

C.W.P. No. 11587 of 1995

8th January, 1986

Constitution of India, 1950--Arts. 226/227--Land Acquisition Act, 1894--S.18--Declining reference--Question of title--Cannot be determined by Collector--Competent authority is the district Judge--Reference to be made to District judge, where state can raise objection with regard to title.

Held that in view of Section 18 of the Act, the Collector has got no right to determine the title with respect to the property and if any compensation has not been paid to the petitioner, who claims to be owner, it is only the statutory arbitrator i.e. the District Judge, who can determine the rights of the parties i.e. the liability of the State to pay compensation to the claimant. The above view finds full support from Sham Lal and others v. Ujagar Singh (died) represented by his L. Rs. and another wherein it has been observed by the Division Bench of this Court that the land Acquisition Collector has got no judicial power to determine the right and title claim of the petitioner.

(Para 2)

S.N. Saini, Advocate for the Petitioner.

R.C. Setia, Additional A.G., Haryana for
the Respondents.

ORDER

(1) Only dispute left is with respect to khasra No. 94/3/2 regarding which the petitioner had claimed compensation under section 18 of the Land Acquisition Act as having not been paid to him and paid to some other person. Petitioner's prayer is that the claim be referred to the District Judge for determination of payment of compensation. Learned counsel for the respondents has refuted the contention on the ground that the amount of compensation has already been paid to the person recorded as owner in the revenue record and the Collector has already decided the question of title and paid the compensation to a different person who has been *prima facie* shown to be owner in the revenue record. Secondly, the petitioner has no right to claim compensation under section 18 of the Land Acquisition Act.

(2) We find force in the sub-mission made by learned counsel for the petitioner. In view of section 18 of the Act, the Collector has got no right to determine the title with respect to the property and if any compensation has not been paid to the petitioner, who claims to be owner, it is only the statutory arbitrator i.e. the District Judge, who can determine the rights of the parties i.e. the liability of the State to pay compensation to the claimant. The above view finds full support from Sham Lal and others vs. Ujagar Singh (died) represented by his L.Rs. and another (1).

Wherein it has been observed by the Division Bench of this Court that the land Acquisition Collector has got no judicial power to determine the right and title claim of the petitioner.

Consequently, declining reference on this ground with respect to one Khasra number cannot be sustained. The respondents are directed to make reference of the entire claim of the petitioner to the District Judge wherein the State will be at liberty to take objection with respect to the title of the petitioner. In view of the observations made above, the respondents are directed to make reference within four weeks with respect to Khasra number 94/3/2.

(3) With this direction this writ petition stands disposed of.

J.S.T.

Before Hon'ble Ashok Bhan & N.K. Sodhi, JJ

PARDAMAN SINGH--Petitioner

versus

STATE OF PUNJAB & OTHERS--Respondents

C.W.P. No. 3688 of 1995

30th May, 1996

*Punjab Gram Panchayat Act, 1952--s.13(B)--
Election petition--Vague allegations for recount in
such petition--Oral request for recount--Authority
ordering recount--Validity of the order.*

Held that an order of recount cannot be passed on the mere asking of a party. There have to be proper pleadings making out the case for recount, framing of an issue and contemporaneous evidence to substantiate the plea of recount. In the present case, recount has been ordered on vague pleadings, without framing an issue, on an oral request without taking any evidence holding that the same would be in the interest of justice and to maintain 'purity of the election' as it would do no harm to anybody, thereby making a mockery of the basic principles