

HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE
(SB: HON. SHRI JUSTICE PRAKASH SHRIVASTAVA)

Writ Petition No.6361/2016

Gurudayal S/o Jhangalmal Talreja ... Petitioner

Vs.

Rajkumar S/o Shyamlalji Talreja
and others. Respondents

Shri Vijay Assudani, learned counsel for the petitioner.
Shri R.M. Deshpande, learned counsel for respondents
No.1 to 4.

Whether approved for reporting :

ORDER

(Passed on 31/10/2017)

1/ By this writ petition the respondent No.6 in the pending proceedings before the court below under the provisions of the Land Acquisition Act, has approached this Court under Article 227 of the Constitution challenging the order dated 22.8.2016 whereby the petitioner's application under Section 151 of the CPC has been rejected.

2/ Learned counsel for the petitioner submits that the petitioner's objection in respect of clubbing all the different lands has not been considered inspite of the earlier direction of this Court.

3/ As against this, learned counsel for the respondents submits that the trial Court has duly considered all the issues which were urged by the petitioner.

4/ Having heard the learned counsel for the parties and on perusal of the record, it is noticed that the pending proceedings are

in reference to the application of respondents No.1 to 4 under Section 30 of the Land Acquisition Act. The petitioner had earlier filed an application under Section 151 of the CPC which was rejected by the court below by order dated 9.3.2015 and the matter was carried to this Court in W.P. No.2275/2015, wherein a grievance was raised by the petitioner that the issue relating to clubbing of the different cases/land has not been examined, therefore, this Court by order dated 25.6.2015 without interfering in the impugned order, had permitted the petitioner to file a fresh application to raise the said issue. In the fresh application the petitioner has sought rejection of the reference on 3 grounds which have been noted by the court below in Para-7 of the impugned order. Each of the ground raised by the petitioner has been examined by the court below. The impugned order reflects that the main grievance which was raised by the petitioner before the court below, was that there was no provision for filing the claim statement and that respondent No.7 is not a necessary party and in respect of Khasra No.198 the respondents No.1 to 4 had not raised any objection. Each of these three issues have been dealt with by the court below and have been answered. The impugned order reflects that the petitioner had not argued any such issue about clubbing of the cases/land, therefore, it is not open to the petitioner to raise such a grievance at this stage. The impugned order passed by the court below is a well reasoned order and it does not suffer from any patent illegality.

5/ Even otherwise, the scope of interference in exercise of jurisdiction under Article 227 of Constitution of India is limited. The Supreme court in the matter of **Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil**, reported in **(2010) 8 SCC 329** has held that High court in exercise of its power of superintendence cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible

view. The High court can exercise this power when there has been a patent perversity in the orders of tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

6/ Having regard to the aforesaid, I am of the opinion that no case for interference in the impugned order is made out. The writ petition is accordingly dismissed.

(PRAKASH SHRIVASTAVA)
J u d g e

Trilok.