

KARNAL IMPROVEMENT TRUST

v.

RAM PARKASH AND ORS.

MARCH 21, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Land Acquisition Act, 1894 :*

*Determination of compensation—Pending determination execution application filed by respondent for realisation of amount due—Objection raised by appellant Trust that in view of the fact that amount deposited was more than what was due to respondent execution application should be dismissed—Rejection of objection raised—Confirmation by High Court—Appeal—Held on an earlier occasion—Supreme Court has set aside the award made by the Tribunal on the ground that it was made by President without participation by other members—In this case award being non est respondent cannot execute the decree until fresh award is made—Amount already paid to respondent would be subject to the result of the fresh award.*

*Kamal Improvement Trust, Karnal v. Smt. Parkash Wanti (dead) & Anr., JT (1995) 5 SC 151, referred to.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5259 of 1996.

From the Judgment and Order dated 14.12.93 of the Punjab & Haryana High Court in C.R. No. 1307 of 1993.

M.L. Verma, S.K. Bagga, Seeraj Bagga, Ms. S. Bagga and Ms. Monika Banot for the Appellants.

The following Order of the Court was delivered :

Though the respondents have been served, no one is appearing on behalf of the respondents.

Leave granted.

This appeal by special leave arises from the order of the High Court of Punjab & Haryana made in C.R. No. 1307 of 1993 on December 14,

1993. It is not necessary to dilate upon all the material facts. Suffice it to state that this Court on an earlier occasion had remanded the self-same matter for determination of the compensation of the Phar land. Pending the determination, the respondents filed Execution Application for realisation of certain amount said to be due. The appellant-Trust filed objection stating that the appellant had deposited more than what was due to the respondents. Therefore, the execution application deserves to be dismissed. The objection was over-ruled and on revision, the High Court confirmed the same. Thus appeal by special leave.

In an analogous situation when the very award of the Tribunal was questioned by the appellant, this Court in *Kamal Improvement Trust, Kamal v. Parkash Wanti (Dead) & Anr.*, JT (1995) 5 SC 151 had held that the judgment of the Tribunal without there being participation by the other members, is illegal and *non est*. Accordingly, it was set aside. Consequently, in law as on date, there is no award in existence. Resultantly, the respondents cannot execute the decree until an award is made afresh in accordance with law. The appellant admittedly had deposited the amount pending revision in the High Court. In view of the fact that the award was set aside, any amount paid would be subject to the result in the award that could be made by the Tribunal under the Act.

The appeal is accordingly disposed of. No costs.

Appeal disposed of.