

**Prabhu Singh and ors. Vs. Pyari**

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**SooperKanoon Citation :** [sooperkanoon.com/613667](http://sooperkanoon.com/613667)

**Court :** Punjab and Haryana

**Decided On :** Dec-20-1953

**Reported in :** AIR1954P& H158

**Judge :** Bhandari, C.J.

**Acts :** [Land Acquisition Act, 1894](#) - Sections 18, 31, 31(2), 32 and 33

**Appeal No. :** F.A.F.O. No. 91 of 1951

**Appellant :** Prabhu Singh and ors.

**Respondent :** Pyari

**Advocate for Def. :** Tek Chand and; H.S. Tyagi, Advs.

**Advocate for Pet/Ap. :** D.K. Kapur, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

Bhandari, C.J.

1. These two appeals raise the question whether it is within the power of the Court in which money is deposited under Section 31, Land Acquisition Act to order the distribution thereof or whether it is under a statutory obligation to direct that the money shall be invested in the purchase of other land or be laid out or invested in

Government or other approved securities.

2. Two plots of land belonging to one Kallu, a proprietor of village Bassaidarapur of the Delhi Province, were acquired by Government and the Land Acquisition Tribunal constituted under the United Provinces Town Improvement Act, as extended to the Province of Delhi, made two awards, one on 31-3-1942 and the other on 30-3-1944, concerning the compensation which should be allowed in respect of the land. Kallu was not satisfied with the amount of compensation awarded by the Tribunal and requested that the matter be referred for the determination of the Court under Section 18, Land Acquisition Act. The amount due to him was accordingly deposited in Court under Sub-section (2) of Section 31 of the Act of 1894.

Several years later, i.e., on 10-4-1950 Kallu died leaving behind him a widow by the name of Shrimati Ram Piari. The widow applied that the amount of compensation due to her husband be paid to her. On 30-5-1951 and 13-7-1951 the collaterals of the deceased made two applications in which they prayed that the amount of compensation be not paid to Shrimati Bam Piari but that it be invested in the manner set out in Section 33, Land Acquisition Act and that only the income of the investment be paid to Ram Piari who is a widow and is entitled only to a life estate. The learned District Judge of Delhi in whose Court the money had been deposited came to the conclusion that the land in respect of which the money was deposited belonged exclusively to Kallu, that compensation in respect thereof was payable to him, that as he died before the money was actually paid to him the money devolved on his widow as his heir, and that the widow was at liberty to deal with it as she liked. In view of these findings the learned District Judge dismissed both the applications. The collaterals are dissatisfied with the order and have come to this Court in appeal.

3. Mr. D. K. Kapur, who appears for the collaterals in the present case, contends that the amount of compensation which is lying in deposit With the Court on behalf of Kallu should be paid to his clients on the ground that if the land had not been acquired by Government and if Kallu had died as the owner of the said land, the widow would have taken possession thereof as a life tenant and that the land itself

would have descended in due course to the collaterals as the next reversioners of the deceased. He considers it inequitable that a tenant for life should be allowed the entire compensation for a plot of land which she has no power to sell and prays that the money should be invested in the manner set out in Section 33 and that the widow should be allowed only the interest from the Investment.

4. The contention put forward on behalf of the collaterals appears to me to be wholly untenable. Section 31, Land Acquisition Act requires the Tribunal to deposit the amount of compensation in Court-

(a) if the persons interested do not consent to receive it; or

(b) if there is no person competent to alienate the land; or

(c) if there be any dispute as to the title to receive the compensation or as to the apportionment of it.

If money is deposited in Court under Clause (b) mentioned above viz., because the owner is a person under disability and not entitled to alienate the land, the money must be applied in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which the money has been paid was held. It was pointed out in -- 'Kelland v. Fulford', (1877) G Ch D 491 (A), that purchase-money paid into Court in respect of land belonging to an incompetent person remains impressed with the character of real estate, and on the death of the said person descends to his heir-at-law. A similar view was taken -- 'in re Banerjee, Official Receiver', AIR 1928 Cal 402 (B); where it was held that compensation money acquired by an incompetent person is part of real property.

5. If any money is deposited in Court for any cause other than that mentioned in Section 32, i.e., if it has been deposited in Court on the ground that the persons interested refuse to accept the compensation, or, if there is any dispute as to the title to receive the compensation, or as to the apportionment of it, the Court is at liberty to make such order in regard to the disposal thereof as it may think fit. Section 33 does undoubtedly provide that the Court may on the application of a party interested order the money to be invested in such securities as it may think

proper; but the use of the word 'may' appears to indicate that a discretion has been vested in the Court either to pay the money to the person entitled or if he so desires to invest it in Government or other securities.

In -- 'Krishna Bai v. Secy. of State', AIR 1920 All 101 (C), a piece of land with some buildings and trees on it was taken up by Government under the provisions of the Land Acquisition Act. 1894. The land belonged to a Hindu widow, but evidence was given on her behalf that her husband's native country was Bikaner, and that according to his personal law his widow would take an absolute interest in the property left by him and not merely an ordinary Hindu widow's estate. A Division Bench of the Allahabad High Court held that the widow was entitled to be paid the whole of the price awarded for the land and not merely to have it invested for her and to receive the interest during her life-time.

6. The facts of the case now under consideration make it quite clear that Kallu was the exclusive owner of the land which had been acquired by Government and consequently that he was entitled to receive the compensation in respect thereof. On his death in the year 1950 his widow became entitled to receive this amount in her capacity as an heir of the deceased. The entries of the Riwaj-i-am which were produced by the widow in the Court below leave no doubt whatsoever that she is entitled to deal with the movable property of her husband in any way she likes although she is not at liberty to alienate her husband's immovable property except for necessity. I am accordingly of the opinion that she must be placed on exactly the same footing as if the husband had received the compensation during his life-time and if he had left the cash with him for being inherited by his widow.

7. For these reasons, I would uphold the order of the Court below and dismiss the appeals with costs.