

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 25963 of 2014
Date of decision: 02.7.2015**

Bijender Singh and others

.....Petitioners

Vs.

The State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Adarsh Jain, Advocate for the petitioners.

Ms. Palika Monga, DAG, Haryana.

Ajay Kumar Mittal,J.

1. The petitioners pray for a writ of mandamus directing respondent No.2 to forward reference petition dated 16.9.2010, Annexure P.1 filed by them under Section 30 read with Section 18 of the Land Acquisition Act, 1894 (in short, "the Act") to the District Judge, Faridabad for apportionment of compensation in respect of the land acquired.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The predecessor-in-interest of the petitioners namely Rattan Lal Yadav was owner of land comprised of Khasra Nos.42//12/2(5-0), 13/1(3-7) and 42//13/2(4-13) situated within the revenue estate of Village Mawai, Tehsil and District Faridabad. The said land was purchased by Rattan Lal out of funds of HUF and all the members including the petitioners had 1/7th share each. Rattan

Lal was the karta of HUF of which petitioners alongwith Bhagat Singh, Suresh Chand, Naresh Chand, Mahesh Chand, Uttam Singh - sons were also co-parceners. Rattan Lal had purchased the said land out of nucleus of HUF which was formed out of sale of ancestral property of the HUF. The said land was purchased in the names of co-parceners Suresh Chand, Naresh Chand and Mahesh Chand. The land in question was acquired by the State of Haryana vide notification dated 31.7.2008 under Section 4 of the Act. Notification under Section 6 was issued on 30.8.2008. The Land Acquisition Collector announced award dated 27.8.2010. Since there was dispute regarding the apportionment of the amount as Suresh Chand, Naresh Chand and others claimed that as land was purchased in their names, they were absolute owners. The petitioners claimed that the said properties were purchased out of HUF funds nucleus of which was formed by sale of ancestral property of HUF. Reference petition under Section 30 of the Act for apportionment of compensation was filed by the petitioners on 16.9.2010, Annexure P.1 before the Land Acquisition Collector, Faridabad. Enhancement of compensation was also claimed. The Land Acquisition Collector, Faridabad did not forward the reference to the civil court/reference court i.e. the court of District Judge, Faridabad. The petitioners got information under Right to Information Act, 2005 to know about the whereabouts of their reference petition. In response thereto respondent No.2 informed vide letter dated 9.5.2013 that the reference petition had been consigned to record and amount of compensation had been paid on 3.12.2010 and 23.12.2010 to Narender Kumar and others. It was further stated that the reference had not been forwarded to the court as there was no evidence regarding ownership. Hence the instant writ petition.

3. We have heard learned counsel for the parties.

4. It is the admitted position that notification for acquisition of land under Section 4 of the Act was issued on 31.7.2008 followed by notification under Section 6 of the Act on 30.8.2008. Award was announced on 27.8.2010 by the Land Acquisition Collector. Since there was dispute qua apportionment of the amount of compensation between the petitioners and other coparceners, petition under Section 18 read with Section 30 of the Act was filed on 16.9.2010 by the petitioners seeking apportionment of compensation but the same was not forwarded to the District Judge, Faridabad by the Land Acquisition Collector. The Collector had erroneously entered into the question of ownership and, thus, declined to make reference under Section 18 read with Section 30 of the Act. No satisfactory explanation has been given by learned counsel for the State for not referring the matter to the District Judge. Accordingly, it is directed that the Land Acquisition Collector, Faridabad – respondent No.2 shall forward the reference petition to the Court of District Judge, Faridabad within three months from the date of receipt of a certified copy of this order alongwith all the requisite documents in accordance with law. The petition stands disposed of accordingly.

(Ajay Kumar Mittal)
Judge

July 02, 2015
'gs'

(Rekha Mittal)
Judge