In the High Court of Punjab and Haryana at Chandigarh

CR No.7217 of 2017
Date of Decision:- 31.10.2017

State of Punjab **… Petitioner**

Versus

Guru Gurmit Singh and others **... Respondents**

Coram: Hon'ble Mr. Justice Gurvinder Singh Gill

Present:- Mr. H.S.Grewal, Addl. A.G. Punjab.

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Gurvinder Singh Gill, J.

This revision petition has been filed by State of Punjab challenging order dated 26.11.2015 (Annexure P-3) passed by learned Additional District Judge, Ferozepur whereby, while considering application under Section 18(1) read with Section 31(2) of the Land Acquisition Act, 1894, the matter has been remitted back to the Collector Ferozepur to re-determine compensation in accordance with provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act of 2013').

The learned Additional Advocate General, Punjab representing the State has submitted that since the award in question had been passed way back in the year 2012 and compensation pursuant to the said award had already been disbursed, therefore, there was no occasion for re-determination of compensation, as directed vide impugned order (Annexure P-3) and that the same deserves to be set aside.

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Having heard the learned State counsel and upon perusal of the impugned order (Annexure P-3) and also the award in question, it is noticed that in fact the award referred to by the learned State Counsel is in the nature of a draft award only, a copy (undated) whereof is annexed with this petition. It has not been shown as to whether the said award had attained finality or not.

Though on the basis of the aforesaid draft award, the State had disbursed compensation, but the payment was made on 24.7.2014 i.e. much after passing of the draft award in question which is stated to have been passed on 6.6.2012, though the draft award annexed with the petition does not disclose any such date. The payment was received by claimants under protest. The aforesaid act would be hit by the proviso to Section 24 of the Act of 2013 which reads as follows:

> "24. Land Acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases. –
>
> (1) …….
>
> (a) ……
>
> (b) ……
>
> (2) …….
>
> *Provided* that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

A perusal of aforesaid proviso shows that a right accrues to the land-owners on account of non-payment of compensation to majority of

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land-owners. Even if the draft award is taken to be a proper award, the same having been passed in 2012 and compensation not paid to majority of land-owners till coming into force of the new Act of 2013, a right for re-determination of compensation had accrued to the land-owners and subsequent payment and acceptance of compensation under protest would not defeat that right.

There is no merit in the revision petition, which, in any case has been filed after inordinate delay of about 20 months without any sufficient explanation for delay, and the same is hereby dismissed.

(Gurvinder Singh Gill)
Judge

October 31, 2017
mohan

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No

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