

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

CWP No. 18090 of 2015 (O&M)

Date of decision : 2.5.2017

Harmala Kaur

.. Petitioner

versus

State of Haryana and others

.. Respondents

Coram: **Hon'ble Mr. Justice Rajesh Bindal**
 Hon'ble Mr. Justice Harinder Singh Sidhu

Present: Mr. Anand Chhibbar, Senior Advocate with
 Mr. Vaibhav Sahni, Advocate, for the petitioner(s).

Ms. Palika Monga, Deputy Advocate General, Haryana.

Rajesh Bindal, J.

This order will dispose of two petitions bearing CWP Nos.18090 and 19523 of 2015, as common questions of law and facts are involved therein.

Learned counsel for the petitioners submitted that petitioners in both the petitions are sisters. The land owned by the petitioners was acquired. The amount of enhanced compensation payable to the petitioners was calculated and a sum of ₹ 31,34,58,738/- was paid, though according to the Land Acquisition Collector (for short, 'the Collector'), the amount due to the petitioners was ₹ 15,86,88,298/-. The amount was paid on 11.2.2015. After the error was noticed by the Collector, notice was issued to the petitioners on 14.7.2015 to deposit the excess amount paid i.e. ₹ 16,74,92,238/-. There was correspondence between the parties as the petitioners were seeking details as to how the excess amount had been paid. Finally, the petitioners were issued notice on 12.8.2015 to either pay the amount or the same will be recovered along with interest. At that stage, the

petitioners filed the present petitions. At the time of issuance of notice of motion, the learned senior counsel appearing for the petitioners submitted that actual principal amount, which has been wrongly excess paid to the petitioners in each case was ₹ 7,93,44,149/-. He had even annexed copies of the Bank drafts prepared in the name of the Collector for payment of the aforesaid amount. The amount of interest demanded by the Collector was sought to be disputed, as the petitioners were not at fault. However, learned senior counsel submitted that as the amount was either kept in Bank or invested and as the petitioners got about 7% return on that amount, they are ready and willing to pay the same to the State. They are not liable to pay interest @ 15% per annum as is sought to be demanded, as there is no enabling provision under the Land Acquisition Act, 1894 (for short, 'the Act') and further the petitioners being not at fault. The bonafide of the petitioners is evident from the fact that after the intimation about excess paid amount was given to the petitioners and on verification of the fact, the amount was paid by them voluntarily.

Learned counsel for the State submitted that the actual amount due from each of the petitioners is ₹ 7,94,02,835 and ₹ 7,94,03,040/-. Hence, even entire principal amount has not been paid by the petitioners. She referred to Section 28 of the Act claiming that on any such excess amount paid, even wrongly to the landowners, interest @ 15% can be demanded.

After hearing learned counsel for the parties, we find merit in the submissions made by learned counsel for the petitioners. It is admitted case of the parties that the amount was inadvertently paid in excess than the

amount due to the petitioners by the Collector. Immediately when the error was notified to the petitioners, on verification of the facts, they deposited principal amount with the Collector. The dispute primarily remains on account of some small differences on the principal amount, which is not being disputed by the petitioners and the rate of interest payable on the amount. The petitioners are ready to pay interest for the period, the money remained with them. Section 28 of the Act does not come to rescue of the State to claim interest on any such payment, as it talks about payment of interest by the Collector in case the amount payable to the landowners is found more than what has been awarded by the Collector. The petitioners have fairly submitted that they earned interest @ 7% per annum on the amount of compensation received. In our opinion, it would be fair in case the petitioners are directed to pay the amount of interest to the State for utilisation of money inadvertently paid to them from the date of payment of amount till it was refunded. The period is about 6½ months. Interest, if calculated @ 7% per annum on the amount, which was inadvertently paid in excess to the petitioners will come out to ₹ 30,11,000/- (rounded of) . The amount of difference in principal amount and the interest shall be deposited by the petitioners with the Collector within four weeks from the date of receipt of the copy of the order.

Learned counsel for the petitioners raised an issue that on the amount of interest received on the enhanced compensation, the petitioners have already paid Income Tax and now that amount is being refunded to the State. As that issue is not under consideration before this Court, the petitioners may avail of their appropriate remedy for seeking refund of the

Income Tax, if so advised.

The petitions stand disposed of.

Learned counsel for the petitioners further pointed out that though the petitioners had been fair enough to deposit the amount immediately after the error was pointed out. In fact, the amount was paid to number of landowners in excess, which was about ₹ 100 crores. The State has not made recovery of even singly penny from any of other landowners.

Learned counsel for the State to furnish details of the entire excess paid amount to the landowners along with their particulars and also as to whether recovery has been made from any other landowners or not and steps taken to recover the amount. The information be furnished within four weeks. The names of the Collector and the officials, who calculated the amount be also furnished.

For the purpose, the matter be listed on 21.7.2017.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

2.5.2017
sharmila

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No