

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

CWP No.18846 of 2017(O&M)
Date of decision: 20.12.2017

Piari Devi and others

... Petitioners

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. Sanjay Tangri, Advocate for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

RAJESH BINDAL, J.

The petitioners have approached this Court praying for quashing of notices of different dates collectively attached as Annexure P-3, whereby the petitioners have been directed to deposit compensation which was paid to them in excess, along with interest thereon @ 15% per annum.

Learned counsel for the petitioners submitted that the land owned by the petitioners was acquired by the State, where notifications under Section 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the

Act'), were issued on 20.6.1998 and 23.6.1999, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 30.7.2003. Amount of compensation was paid to the petitioners. Dissatisfied, the petitioners filed objections under Section 18 of the Act, which were referred to the court. Compensation was further enhanced. The Collector paid enhanced compensation to the petitioners without there being any mis-statement or mis-representation by them. All of sudden, impugned notices were issued requiring the petitioners to deposit the amount of compensation, which according to the State was allegedly paid to them in excess.

Submission is that when the notices were received by the petitioners, they immediately filed representation that details of the alleged excess paid amount be furnished. However, needful was not done. It was on their own that the petitioners deposited the amount, which could be excess paid, on 14.7.2017 after calculating interest @ 7%. It was in tune with the earlier order passed by this Court on 2.5.2017 in CWP No.18090 of 2015—Harmala Kaur vs. State of Haryana and others. If there is any other amount excess paid, the petitioners can deposit the same back, however, interest should be charged @ 7% per annum and not @ 15% per annum, as has been demanded by the respondents. It was further submitted that the petitioners have not been paid interest for the period from 18.5.2001 to 3.7.2003 on the compensation paid to them.

On the other hand, learned counsel for the respondents submitted that excess payment was made to the petitioners during the period from December, 2014 to February, 2015. The petitioners very well knew

when the payment was being received by them that the amount is not in tune with the land owned by them, compensation whereof was enhanced. When notices were issued on 14.7.2015, the petitioners never came forward to deposit the amount. They just kept quiet after filing one reply seeking details thereof. There is no record available in the office as to whether the letters of the petitioners were responded to or not. In fact, at that time some officials were working in the office of the Collector, who were found to be involved in excess payment of compensation. The amount excess paid to the petitioners is ₹ 1,30,42,479/-, which after adding interest @ 15% per annum up to 31.7.2017 comes out to ₹ 1,78,77,345/-, out of which the petitioners deposited only ₹ 80,04,773/-. The balance amount is still to be recovered. It was further submitted that the present petition has been filed only after this Court passed order in Harmala's case (supra) directing the State to apprise the Court about the steps taken to recover about ₹ 100 crores, which had been paid in excess to the landowners. It was further submitted that even news items were published in the newspapers on 23.6.2015 and 24.6.2015 regarding excess payment of the compensation to the landowners. Still the petitioners did not come forward to enquire or deposit the excess amount received by them. After the order was passed by this Court, individual notices were issued to all the landowners on 23.6.2017 and thereafter, notice was published in newspaper on 30.7.2017 and Committee was constituted to go into the matter. The petitioners even appeared before the Committee on 8.8.2017. On 9.8.2017, the names of the defaulters, who had not deposited excess amount received, were sent to the State Vigilance Bureau.

The petitioners claim that interest on the excess paid amount should be recovered from them @ 7% per annum in view of Harmala's case (supra) is totally mis-conceived as she voluntarily deposited the amount immediately after first notice was issued. The matter came to the Court only because the demand of interest from her was @ 15% per annum, whereas, the petitioner therein, who is an old lady had just kept the amount in Bank in fixed deposit and transferred the same from Bank to the Collector. She had not used the funds at all. In the case of the petitioners, they had utilized the funds for their benefit either by investing for higher returns or for purchasing land. Hence, they should be directed to pay interest @ 15% per annum, the rate at which interest is paid by the State under the Act.

In response, learned counsel for the petitioners submitted that the petitioners were unable to pay the amount in pursuance to the notices received, as different notices mentioned different amounts. The petitioners cannot be said to be at fault.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, the undisputed facts on record are that the land owned by the petitioners was acquired. They were paid compensation as determined by the Collector. Dissatisfied with the amount of compensation awarded, the petitioners filed objections under Section 18 of the Act, which were referred to the court. Compensation was enhanced. At the time of payment of enhanced compensation, some of the officials of the office of the Collector connived and as a result about ₹ 100 crores were paid in excess as compensation. The petitioners are few of them, who had

received excess compensation. The amount was paid from December, 2014 to February, 2015. When the compensation was paid to the petitioners, though they are claiming that they were totally ignorant, but they could very well calculate that it was not in tune with the area of land owned by them, which was acquired. The excess payment was not in few thousand rupees, it ran into crores to different landowners. The landowners were paid double the amount, they were entitled to. The issue was raised by the media, when news items were published in the newspapers on 23.6.2015 and 24.6.2015. It was thereafter that the Collector's office issued notices to all the landowners on 14.7.2015. Notices were issued even to the petitioners. They kept quiet except that they filed representation dated 26.5.2016, nearly one year after the notices were issued, seeking detailed calculations. The amount in excess received by the petitioners was not parked in the Bank only rather it was invested for higher returns and also utilized for purchasing land. Amount of excess paid compensation alongwith interest @ 15% per annum comes out to ₹ 1,30,42,479/- and the petitioners deposited only ₹ 80,04,773/-.

In Harmala's case (supra), the matter came up for consideration before this Court, where the petitioner, who is an old lady, approached this Court raising the issue that demand of interest @ 15% per annum from her is on higher side as she was not at fault in receiving excess compensation on account of acquisition of her land. The amount of compensation received by her was kept in Bank in a fixed deposit. The movement, first notice was received by her, the amount was immediately paid back. It was in these circumstances that this Court directed the petitioner therein to pay interest

@ 7% per annum, the rate at which she earned interest on fixed deposit. While deciding the aforesaid petition, when it was brought to the notice of the Court that about ₹ 100 crores was paid in excess to different landowners and the State was sleeping over the matter, this Court directed 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. As a consequence, notices were issued to the landowners, who had been paid compensation in excess. The petitioners kept quiet. The petitioners' case is not at par with Harmala's case (supra) and the order passed in CWP No.19523 of 2015--Rattanmala Kaur vs. State of Haryana and others, decided on 2.5.2017, as in those cases, action to deposit the amount of compensation was immediate after the notices were issued and the amount had not been utilized by them rather it was kept in fixed deposit in Bank, whereas in the case of the petitioners, they deposited the compensation only after this Court had taken up the matter and sought report from the State as to what steps have been taken for recovery of excess paid amount. Further the petitioners had not kept the amount deposited in the Bank, rather had invested the same either in land or otherwise, hence, the petitioners cannot be charged interest @ 7% per annum. They are liable to pay interest at the same rate, on which it is paid to the landowners under the Act. When the petitioners could deposit the amount after report was sought by this Court, without any detail being furnished by the Collector, the same could have been done at the very first stage when the notices were issued to them and then seek calculation to find

out whether any other amount is due. The petitioners did not even pay the principal amount. Their intention was not bonafide.

For the reasons mentioned above, the writ petition is dismissed.

(RAJESH BINDAL)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

20.12.2017
sharmila

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No