

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

**Civil Writ Petition No.17413 of 2015
Decided on : 26.03.2018**

Balbir Singh

... Petitioner

Versus

Dedicated Freight Corridor Corporation of India Limited and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Diwan S. Adlakha, Advocate
for the petitioner.

Mr. Mohit Sharma, Advocate for
Mr. Jagdish Marwaha, Advocate for respondents No.1 and 2.

Mr. Shivendra Swaroop, AAG, Haryana
for respondent No.3.

Mr. Rajesh K. Sheoran, Advocate
for respondent No.4.

G.S. Sandhawalia, J. (Oral)

The present writ petition under Article 226/227 of the Constitution of India has been filed for directing the respondents to make the payment of compensation to the petitioner in respect of the structure of his acquired house alongwith interest and to issue a Residency Certificate in favour of the petitioner, so that he can get the payment of structure of his acquired house.

It is the case of the petitioner that on 08.11.2011 (Annexure P-7), the respondent No.3 announced the Award No.4 of Village Mandebri, Tehsil Jagadhari, District Yamuna Nagar for the acquisition of land for maintenance management of operation of Special Railway Projects,

Eastern Dedicated Freight Corridor in the District of Yamuna Nagar. As per the award itself there was a structure in the area of acquisition for which compensation had been assessed by the State Government Departments and was to be paid to the concerned land owners.

It is the grouse of the petitioner that in spite of approaching the respondents repeatedly for payment of the compensation vide representation dated 05.08.2014 (Annexure P-8) and 11.08.2014 (Annexure P-9) and thereafter serving a legal notice dated 13.03.2015 (Annexure P-11) compensation has not been paid.

The defence of the respondent No.3-State is that the petitioner was an unauthorized occupant of the land of the Municipal Corporation as per the revenue record. The Corporation was shown as the owner in the khasra numbers and, therefore, the petitioner was not entitled for any compensation. The plea was taken regarding jurisdiction as such, as disputed questions of fact with regard to ownership are involved and the petitioner is required to establish the same before an appropriate Forum. It was admitted that the value of the house had been assessed as ₹1,65,200/- which was lying deposited and therefore, the petitioner was not entitled for the said amount.

Similarly, the plea was taken by the respondent No.4-Municipal Corporation, Yamuna Nagar that the land had been acquired by respondent No.1 vide notification under Section 20-A of the Railways Act, 1989 (for short 'the Act'). The amount of compensation has been paid to the Corporation, who was actual owner of the land and, therefore,

he was not entitled to claim any relief against the said respondent. Neither any objections as such have been raised before the competent authority.

Section 20-H (4) of the Act provides that if there is any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

The State in its defence could only submit that no application as such has been filed under Section 20-H of the Act and, therefore, no action has been taken and the matter has not been referred to the Civil Court. Admittedly, representations have been filed by the petitioner and a legal notice has also been served upon respondent No.2 regarding the said claim, which are Annexures P-8, P-9 and P-11.

In such circumstances, it was the bounden duty of the respondent No.3 to refer the matter to the Civil Court of original jurisdiction, so that the matter can be adjudicated upon as a dispute has been raised by the Municipal Corporation about the right of the petitioner and whether the cost of the structure is to be paid to the owner of the land or the occupier.

Accordingly, the present writ petition is disposed of with the directions to respondent No.3 to refer the matter to the Civil Court of original jurisdiction at Jagadhari, Yamuna Nagar within a period of 4

weeks from the receipt of the certified copy of this order. The amount deposited with the competent authority shall also be forwarded to the said Court, which shall take necessary steps to keep it in a Fixed Deposit receipt to earn the maximum rate of interest till the reference petition is, accordingly, decided.

The writ petition stands disposed of with the above said terms.

MARCH 26, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No