

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

**CWP No.12744 of 2018
Date of Decision:18.05.2018**

Harjinder Kaur and others ...Petitioners

Versus

State of Punjab and another ...Respondents

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

Present: Mr. Mohit Jaggi, Advocate
for the petitioners.

G.S. SANDHAWALIA, J. (ORAL)

The petitioners have challenged the order dated 30.04.2018 (Annexure P-14) passed by respondent No.2 whereby it has been held that the compensation of the land has already been paid to the recorded landowners. Therefore, the claim of the petitioners for disbursement of the compensation could not be considered and it was held that they are free to initiate appropriate proceedings against the said recorded landowners in the competent Court of law for recovery of compensation amount. The relevant portion of the order reads as under:

“After considering the submissions of the Counsel and having perusal the relevant record maintained in this office it has come forth that the land in question was acquired vide Award No.527 dated 13.12.2011 and compensation amount qua this land has already been paid to the recorded land owners in the Year 2011 itself. Now the petitioners are claiming the compensation amount for the share of Wazir Singh s/o Sher Singh being legal heirs of Wazir Singh s/o Sher Singh on the basis of judgment dated 02.02.2013, but they could not submit any mutation regarding this

land. When compensation of the acquired land had already been paid to the recorded land owners namely Rajinder Kumar Mittal s/o Ram Sarup (½ share), Manjit Kaur w/o Ranjit Singh (¼ share), Paramdeep Kaur w/o Baldev Singh (¼ share) on 13.12.2011 and 20.12.2011, therefore, claim of the petitioners for disbursement of compensation can not be considered at this stage but they are free to initiate appropriate proceeding against the said recorded land owners in the competent court of law for recovery of the compensation amount.”

The land was acquired on 22.12.2010 vide notification issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') and the petitioners claim right to receive the compensation on the basis of sale deed dated 18.11.2004 (Annexure P-1) in their favour for 9 kanals 18 marlas in village Chao Majra, SAS Nagar, Mohali. They further claim as such on the basis of judgment dated 02.02.2013 (Annexure P-6) in which petitioner No.4 was arrayed as defendant No.3 and the petitioner Nos.1 to 3 are the legal representatives of defendant No.4. It is thus the case of the petitioners that suit of Angrej Kaur had been dismissed.

Section 30 of the Act provides that in case, any dispute as to the apportionment of the amount of compensation which has been paid under Section 11 of the Act, and the persons who would be entitled to the amount of any part, can approach the Collector regarding the dispute for the decision of the Court. Section 30 of the Act reads as under:

“Dispute as to apportionment - When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the

same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”

Keeping in view the provisions of the Act, this Court is of the opinion that the order as such is impugned, does not suffer from any infirmity whereby the matter has to be referred to the Principal Civil Court of original jurisdiction which had been defined under Section 3(d) of the Act.

It is settled principle that once there is alternative and efficacious remedy available, the writ Court jurisdiction will not be exercised in view of the law laid down by the Apex Court in **Union of India Vs. Satyawati Tandon and others 2010(8) SCC 110**. The relevant observation reads as under:

“44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution. 45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application,

appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.”

Even otherwise, once there are disputed questions as such of fact, it is not for this Court to enter into the thicket of such controversy. It is also pertinent to notice that the private respondents have not been arrayed in the said writ petition. In such circumstances, this Court is of the opinion that the writ jurisdiction is not liable to be invoked. Accordingly, liberty is granted to the petitioners to approach the competent court of original jurisdiction as has been observed in the impugned order, by following the prescribed procedure.

Petition stands disposed of.

18.05.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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