

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

**CWP No.16632 of 2018 (O&M)
Date of Decision:29.10.2018**

Sh. C.S. Agarwal and others ...Petitioners

Versus

State of Haryana and others ...Respondents

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

Present: Mr. Gorang Gupta, Advocate
for the petitioners.

G.S. SANDHAWALIA, J. (ORAL)

CM-16243-CWP-2018

Application under Section 151 of CPC for placing on record Annexures P-12 and P-13, is allowed subject to all just exceptions. The same are taken on record. Office to tag the same at appropriate place.

CM stands disposed of.

CWP No.16632 of 2018

The present writ petition has been filed under Articles 226/227 of the Constitution of India, for quashing of the statement of account (Annexure P-7) and the letter of reference made to the District Judge, Rewari (Annexure P-11). Further directions have been sought to seize the payment disbursed under award dated 10.05.2013 passed in view of the notification dated 13.05.2010 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') and the subsequent proceedings whereby land measuring 1814 kanals 5 marlas was acquired. Directions have also been sought to recover the released amount awarded to respondent Nos.5 and 6 and disburse the same to the petitioners, to the

extent of earnest money and sale consideration paid by the petitioners.

A perusal of Annexure P-11 would go on to show that respondent No.2 referred the matter to the District Judge, Rewari on account of respondent No.5, M/s Rajdhani Nurseries Limited having not accepted the award announced by the said respondent. It is not disputed that the petitioners themselves have also preferred the matter under Section 18 of the Act. Petitioners have also filed reference petition under Sections 30 and 31 of the Act in which respondent Nos.5 and 6 have also been arrayed as respondents (Annexure P-14). Various claims have been raised in the said reference petition on account of being a lessor vide the lease agreement dated 30.11.2006 and agreement to sell dated 05.02.2017 (Annexure P-2) and entitled to get the compensation as per entitlement etc. It is not disputed that the present petition, at this stage, is at the whims and fancies of the petitioner and the matter is yet to be adjudicated upon on merits. By filing this writ petition, the petitioners are wanting this Court to pre-judge the issue as to what was the amount due and whether excess payment as such have been made to the private respondents. It is settled principle that a writ Court would not go into the disputed questions of facts and the matter is yet to be crystalized before the Reference Court as to what is the entitlement inter se the petitioners and the private respondents. Section 30 of the Act provides that if dispute arise for the apportionment of the same, the Collector may refer such dispute for the decision of the Civil Court which admittedly has already been done. Once that is so, then the extraordinary writ jurisdiction of this Court cannot be invoked, once an alternative and efficacious remedy is available to the petitioners, keeping in view the law laid down by the

Apex Court in **United Bank of India Vs. Satyawati Tondon and others, 2010 (8) SCC 110**. It was observed that it was a self imposed restraint and the alternative remedy was a rule of discretion and not one of compulsion.

The principles laid down read as under:-

“30. The Court while exercising its jurisdiction under [Article 226](#) is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;*
- (b) the petition reveals all material facts;*
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;*
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;*
- (e) ex facie barred by any laws of limitation;*
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.”*

Resultantly, keeping in view the fact that disputed questions arise in the present case and since there is alternative remedy available to the petitioners, this Court does not deem it a fit case to opine upon at this stage. Accordingly, there is no merit in the present writ petition and the same is dismissed in limine.

29.10.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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