

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

**RFA No.391 of 2016 (O&M)
Decided on : 17.05.2018**

Vinod Gupta and others

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Ashok Aggarwal, Advocate
for the appellants

Mr. Shivendra Swaroop, AAG, Haryana.

Mr. Kulbhushan Sharma, Advocate
for respondent No.4.

G.S. Sandhawalia, J. (Oral)

The challenge in the present appeal is to the Award dated 04.09.2015 passed by the Reference Court, Faridabad under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'), which proceedings had been initiated by respondent No.4.

The grouse of the appellants is that an application under Order 1 Rule 10 CPC for impleadment had been moved before the Reference Court, which had been dismissed at the time of framing the issues on 13.08.2015 on merits (Annexure R-1). Since the Award, thereafter, was passed in a short period of time on 04.09.2015, the appellants did not get an opportunity to challenge the said order and it is the argument that the said order having merged in the final Award, the present appeal would be maintainable.

Counsel for the respondent No.4 on the other hand submits that in similar circumstances in other reference petitions filed under Section 18 of the Act, the applications under Order 1 Rule 10 CPC filed by the appellants have been dismissed. The appellants had preferred **Civil Revision No.2293 of 2016 'Vinod Gupta and others Vs. State of Haryana and others'** and on 31.03.2016 the following order was passed in the said case:-

“1. The only grievance of the petitioner is that in application for impleadment in reference brought under Section 18 of the Land Acquisition Act, the Court has held that he is not entitled to the property. The issue of entitlement cannot be tested by the Court under Section 18 reference. I vacate the finding and maintain the order and it will be open for the petitioner to seek for an appropriate reference under Section 30 of the Land Acquisition Act in the manner known to law.

2. The revision petition is dismissed but with the observations.”

It is, thus, submitted that the present appeal is not liable to be allowed. Counsel for the respondent No.4, however, could not deny the fact that on merits the entitlement of the parties as such which has been granted by the above said order and the right as such to file a petition under Section 30 of the Act for apportionment of compensation received for the land acquired had been left open.

The said view has also been taken by the Apex Court in **'Ramji Gupta and another Vs. Gopi Krishan Aggarwal (D) and others' 2013 (2) RCR (Civil) 898.**

Resultantly, keeping in view the above and the fact that in another **Civil Revision No.4383 of 2016** decided on 28.09.2017 *inter se*

the parties, similar right has been left open, the present appeal is disposed of with liberty to the appellants to seek their remedy in accordance with the law under Section 30 of the Act. Nothing said in the interim order dated 13.08.2015 would prejudice the appellants.

All pending civil miscellaneous applications are also disposed of.

MAY 17, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No