

**CR No. 1772 of 2018 and
CR No. 1781 of 2018**

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

**CR No. 1772 of 2018
Date of Decision: 06.02.2019**

Murti Shree Neelkanth Mahadev

.....Petitioner

vs

State of Haryana and others

.....Respondents

CR No. 1781 of 2018

Prem Nath Gupta and others

.....Petitioners

vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ajay Jain, Advocate,
for the petitioners.

Mr. R.K. S. Brar, Addl. A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

By these petitions, the petitioners challenge the orders of the learned Additional District Judge, Narnaul, to which Court references under Section 18 of the Land Acquisition Act, 1894 were made, upon the petitioners in these petitions having sought enhancement of the compensation awarded by the Land Acquisition Collector after their land was acquired pursuant to a notification issued on 04.05.2011 under Section 4 of the said Act, with the Award thereafter pronounced on 17.01.2013.

The application for enhancement was made to the Collector on

27.02.2013 in the case of the petitioner in CR No. 1772 of 2018, and on

26.02.2013 as regards the case of the petitioners in CR No. 1781 of 2018 (as per learned counsel appearing for the petitioners).

The applications were thereafter referred to the competent Court, i.e. the Additional District Judge, on 29.08.2014 in the former case and on 16.03.2015 in the latter case.

That Court eventually framed issues on 21.05.2016 in the former case and 03.10.2016 in the latter.

In the case of the petitioner in CR No. 1772 of 2018, he thereafter filed an application under Order VI Rule 17 CPC on 05.12.2016, seeking that he may be permitted to amend the pleadings to contend therein that as the compensation was not deposited by the respondent-Government at the time when the Award was passed under Section 11 of the Act of 1894, his case would therefore fall within the purview of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, it falling within the exception carved out in the proviso to clause (b) of sub-section (1) of Section 24.

The petitioners in CR No. 1781 of 2018 made their application under Order VI Rule 17 CPC on 16.01.2017, as per the impugned order.

The said applications have been dismissed by the learned Additional District Judge vide the orders impugned in these petitions, on the ground that the Act of 2013 very much being in force at the time when the references were made to it, and thereafter the trial also having commenced, the amendment could not be allowed even in terms of the proviso to Rule 17 of Order VI, (the petitioners not having acted with due diligence by incorporating the averment in the original petition, as is now sought to be inserted by way of an amendment).

Before this court, Mr. Jain, learned counsel for the petitioners, however submits that firstly, the petitioners came to know of the fact that the compensation had not been deposited by the respondent-State in most of the cases pertaining to the acquisition of land, only when they moved applications to the Collector for release of the amount already awarded in August and October, 2013, after which also the amount was not released (as contended) and consequently, they could not have actually incorporated that fact at the time when the applications for enhancement of compensation were filed in February 2013.

Mr. Brar, learned Addl. A.G., Haryana, on the other hand submits that even so, the applications for amendment having been filed only in December 2016/January 2017, i.e. at least 3 to 3½ years after the petitioners came into knowledge of the aforesaid fact (which also he denies, because as per his instructions the compensation was deposited even prior to the passing of the Award), the applications were rightly dismissed by the reference court.

In rebuttal, Mr. Jain submits that in fact this was not even a plea taken by the respondent-State in its reply to the application under Order VI Rule 17 CPC, and on the issue of any delay even beyond the time when the petitioners came to know that compensation had not been deposited in most cases by the State at the time when the Award was announced (as contended), he submits that it being a statutory provision under Section 24 of the Act of 2013, not allowing the amendment eventually would be inconsequential, because if the Reference Court does not grant such compensation as is statutorily due to the petitioners, it would just lead to another round of litigation by invoking the writ jurisdiction of this Court.

Having considered the arguments, I agree with Mr. Brar to the extent that though it has not been disclosed as to when exactly the petitioners came to know that the compensation had not been deposited immediately after the passing of the Award (as contended), yet, I do agree with the 2nd part of the contention of Mr. Jain that if the Reference Court ignores the statutory provisions of the new Act, it indeed would lead to a fresh round of litigation because naturally if the petitioners are entitled to such compensation in terms of the proviso to clause (b) of sub-section (1) of Section 24 of the Act of 2013, it would possibly be difficult to deny it to them.

Having said that, it is to be clarified by this Court that the aforesaid observation shall not be taken by the Reference Court to be one commenting on the merits of the contentions raised by the petitioners, as to whether actually compensation was deposited prior to the new Act coming into force or not, for Section 24 of that Act to apply or otherwise.

Hence, while allowing these petitions and setting aside the impugned orders and directing the learned Reference Court to allow the amendment sought by the petitioners, seeking that they be allowed to contend that the provisions of the Act of 2013 are applicable to them, whether such provisions are actually applicable to them or not, as per the factual situation read with the statutory provision, is something which that Court would go into wholly on the basis of evidence led before it with regard to whether or not compensation was deposited by the respondent-State, in respect of a majority of land holdings as had been acquired pursuant to the notification dated 04.05.2011, thereby entitling/dis-entitling the petitioners to the benefits of the new Act.

The petitions are allowed only in the above terms.

No order as to costs.

February 06, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes