

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-3636-CWP-2019 AND

CWP No.5277 of 2019

Date of Decision: 20.05.2019

Surjit Kaur & Ors.

... Petitioners

VS.

State of Punjab

... Respondent

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

Present: Ms. Dhivya Jerath, Advocate for the petitioners

Ms. Simran Grewal Randhawa, AAG Punjab

G.S. SANDHAWALIA, J. (Oral)

CM-3636-CWP-2019

Application under Order 6 Rule 17 CPC read with Section 151 CPC has been filed at the initial stage when the notice of motion has not been issued seeking amendment of the headnote and prayer clause of the instant writ petition. The prayer clause sought to be amended reads as under:-

Civil Writ petition under Article 226/227 of the Constitution of India for issuance of appropriate writ, order or direction in the nature of mandamus; directing the Respondent No.1 which is a competent authority to decide the land reference under Section 18 of the Land Acquisition Act, 1894, to enhance/modify the award dated 23.10.2018 (ANNEXURE P-1) passed by Respondent No.1 as the same though has been enhanced but is on lower side and there is still scope of enhancement as certain important factors have been overlooked while passing the award dated 23.10.2018;

Further issuance of appropriate writ, order of direction in the nature of certiorari for quashing of the award dated 23.10.2018 only to the extent, wherein, solatium & interest is to be calculated from 26.03.2015 whereas the land of the petitioners was acquired in the year 2013;

And

Further writ in the nature of mandamus; directing the Respondent No.1 which is a competent authority decide the land reference petition under Section 18 of the Land Acquisition Act, 1894, to grant the interest to the petitioners from the year 2013 and also to enhance the amount awarded as per the award dated 23.10.2018 (ANNEXURE P-1) passed by respondent No.1...

Accordingly the application for the amendment is allowed and the prayer clause and head note are replaced to the extent reproduced above.

CM stands disposed of.

Main case

The challenge in the present writ petition is to the award dated 23.10.2018 passed by Additional District Judge under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 whereby enhancement as such is sought. A perusal of the award of the Reference Court would go on to show that the Land Acquisition Collector passed an award on 26.03.2015 and another award on 27.08.2015. The reference has been partly accepted which is subject matter of the present writ petition.

A perusal of the Section 74 of the 2013 Act would show that an appeal is provided to this Court against the award passed by the authorities under Section 69. Section 74 reads as under:-

*74. **Appeal to High Court.**—(1) The Requiring Body or any person aggrieved by the Award passed by an Authority under section 69 may file an appeal to the High Court within sixty days from the date of Award:*

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

(2) Every appeal referred to under sub-section (1) shall be heard as expeditiously as possible and endeavour shall be made to dispose of such appeal within six months from the date on which the appeal is presented to the High Court.

Explanation.— For the purposes of this section, “High Court” means the High Court within the jurisdiction of which the land acquired or proposed to be acquired is situated.

In such circumstances, the writ petition is not maintainable.

Counsel has submitted that on an earlier occasion, the RFA filed by the landowners had been returned by the Registry.

Keeping in view the statutory provision as such this Court is of the opinion that the writ petition is not maintainable. The same is accordingly dismissed. However liberty is granted to file the appeal in view of the above said provision.

Ordered accordingly.

20.05.2019

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No