

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

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CWP-25477-2018 (O&M)

Date of decision: 09.09.2021

THE HISAR SHIV SHAKTI CO-OP HOUSE BUILDING SOCIETY LTD.
HISAR ..Petitioner

Versus

STATE OF HARYANA AND ANR ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aditya Jain, Advocate for the petitioner.
Mr. Tarun Walia, AAG, Haryana.

ANIL KSHETARPAL, J (Oral)

It is an unfortunate case where the land owner even after losing their precious land on account of its compulsory acquisition was not paid the amount awarded by the Land Acquisition Collector for a period of more than 7 years. The notification under Section 4 was issued on 31.03.2008 whereas award No.8 was announced by the Land Acquisition Collector under Section 11 of the Land Acquisition Act, 1894 on 27.01.2011. It is not in dispute that the petitioner was released the amount of Rs.2,11,52,535/- on 03.05.2018.

In the written statement dated 03.02.2021, the respondent has taken a stand that as per the directions of the Courts as well as Government instructions dated 24.09.2015, the amount of compensation is required to be transferred in the account of the land owners through the RTGS mode. Since the petitioner society did not furnish its bank account number therefore, the amount could not be transferred.

Thereafter, respondent No.3, once again, was granted an

opportunity to file a better affidavit. Again a short reply by way of affidavit of Land Acquisition Collector, Urban Estates Department, Haryana has been filed, reiterating the previous stand.

As per the Section 31 of the Land Acquisition Act, 1894, the Land Acquisition Collector is required to tender payment of the compensation awarded by him to the persons interested on making an award under Section 11 of the 1894 Act. It is the duty of the Land Acquisition Collector to tender the amount to the persons entitled therein unless prevented by someone or more of the contingencies specified in the sub Section 2 of Section 31 of the 1894 Act. Sub Section 2 of Section 31 provides that if the interested persons do not consent to receive it or if there is no person competent to receive the amount or if there is any dispute regarding the title for the receipt of the amount of compensation or about/with regard to the apportionment thereof, the Land Acquisition Collector shall deposit the amount of compensation in the Court to which a reference under Section 18 is required to be submitted. Section 31 of the 1894 Act is extracted as under:-

“Payment of compensation or deposit of same in Court. -

(1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under

section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the [appropriate Government] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.”

From the statutory provisions and facts noticed above, it is evident that the Land Acquisition Collector has failed to comply with the mandate of the statutory provisions. The Land Acquisition Collector has neither disclosed any justifiable reason to withhold the payment nor deposited the amount in the Court where the reference under Section 18 is required to be forwarded.

Keeping in view the aforesaid facts, it becomes discernible that the petitioner who has not been paid compensation as assessed by the Land Acquisition Collector becomes entitled to the payment of interest in accordance with Section 34 of the 1894 Act which is extracted as under:-

“Payment of interest - When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest

thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited.”

Keeping in view the aforesaid undisputed position, the writ is allowed. The respondent State is directed to calculate the interest in accordance with the mandate of Section 34 and pay the same to the petitioner within a period of three months from today.

All the pending miscellaneous application(s), if any, are also disposed of.

09.09.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE