

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

CWP-1906-2021 (O&M)

Date of decision: 01.12.2022

Eros City Developers Pvt. Ltd

....Petitioner

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aashish Chopra, Sr. Advocate with
Ms. Rupa Pathania, Advocate for the petitioner

Mr. Harsh Vardhan Shehrawat, AAG, Haryana
Mr. J.S.Pannu, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

Through this writ petition filed under Article 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of Mandamus to grant compensation alongwith interest under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act'). A writ in the nature of Certiorari to set aside the order passed by the District Revenue Officer on 15 December, 2020 has also been sought to be issued.

The relevant facts in brief are required to be noticed.

The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') was issued on 8th October, 2003, which was followed by publication of declaration under Section 6 of the 1894 Act on 7th May, 2004. The petitioner challenged the acquisition by filing CWP- 10611 of 2004. In the meantime, the

Land Acquisition Collector announced the award on 5th May, 2006. The writ petition filed by the petitioner was allowed, however, in appeal, the Supreme Court reversed the decision of the High Court. Hence, the acquisition of the petitioner's land was upheld. The petitioner, thereafter, filed CWP No. 4803 of 2016 claiming benefit of Section 24(2) of the 2013 Act. In substance, the petitioner claims that the acquisition has lapsed on account of compensation not having been paid for a period of 5 years. The aforesaid writ petition was also dismissed on 24th August, 2020. The petitioner filed a review application, which was disposed of with the following order:-

“CM-9726-CWP-2020

1. Exemption allowed, subject to all just exceptions.

RA-CW-204-2020 in CWP No. 4803 of 2018

2. Having heard learned Mr. Harish Malhotra, learned Senior Counsel for the Review Applicants/Petitioners and Mr. Ankur Mittal, Additional Advocate General, Haryana, the Court modifies the order dated 24th August, 2020 in CWP No. 4803 of 2016 only to the extent of clarifying that it will be open to the Review Applicants/Petitioners to approach the concerned District Revenue Officer-cum-Land Acquisition Collector (DRO/LAC) for release of the compensation, which the Review Applicants/Petitioners claim is due to them. If such application is filed by the Review Applicants/Petitioners within a period of four weeks from today, it will be examined and disposed of in accordance with law by the DRO/LAC within a further period of 8 weeks thereafter.

3. The review application is disposed of in the above terms.”

As already noticed, the District Revenue Officer-cum-Land Acquisition Collector has declined to grant the benefit under the 2013 Act.

Heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

Learned senior counsel representing the petitioner submits that the writ court should declare that the petitioner is entitled to the benefit under the 2013 Act. He submits that if the writ court finds that the petitioner is not entitled to the benefit under the 2013 Act, then, the Land Acquisition Collector be directed to pay the same amount of compensation, which has been paid to the various landowners under the orders of the High Court.

This Court has considered the submissions, however, expresses its inability to accept the same. As per the provisions of the 2013 Act, the market value is required to be assessed either by the Reference Court or by the authority constituted under the 2013 Act. For that purpose, an application is required to be made to the Land Acquisition Collector within the time prescribed. The petitioner can avail the aforesaid statutory remedy. A writ Court cannot be expected to decide an abstract proposition of law, particularly when there is a statutory remedy provided under the concerned Act. In view of the aforesaid, the petitioner, if so advised, may apply to the Land Acquisition Collector, who passed the award, for availing the given remedy.

With these observations, the petition stands disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

01.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE