

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

- 1)

CR-8779-2016
Date of decision: 12.05.2022
- M/s DLF Ltd.

.....Petitioner
- versus
- Land Acquisition Collector and another

.....Respondents
- 2)

CR-8781-2016
- M/s DLF Ltd.

.....Petitioner
- versus
- Land Acquisition Collector and another

.....Respondents
- 3)

CR-8785-2016
- M/s DLF Ltd.

.....Petitioner
- versus
- Land Acquisition Collector and another

.....Respondents
- 4)

CR-1480-2017
- M/s DLF Ltd.

.....Petitioner
- versus
- Land Acquisition Collector and another

.....Respondents

5) CR-1492-2017

M/s DLF Ltd.Petitioner

versus

Land Acquisition Collector and anotherRespondents

6) CR-8812-2016

M/s DLF Ltd.Petitioner

versus

Land Acquisition Collector and anotherRespondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Rajeev Anand, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl.A.G., Haryana
for respondent No.1-State.

None for respondent No.2.

FATEH DEEP SINGH, J.

The above detailed six civil revisions all by M/s DLF Limited (in short 'the DLF') is directed against the different realtors/land owners with whom they claim to have litigation over

development of land for residential/commercial purposes on the basis of collaboration agreement, so executed. Since, common question of law and facts are involved and to facilitate brevity, all these matters are thus, being disposed off together by this order.

Heard counsel for the parties and perused the records.

The State of Haryana issued notification under Section 4 of the Land Acquisition Act, 1894 dated 07.08.2013 acquiring agricultural lands in the area village Shikohpur, Tehsil and District Gurgaon for the purposes of development and utilization of carving Sectors 75 to 80 at Gurgaon. The DLF who is carrying on business in the developing of various residential and commercial spaces in the Country entered into the collaboration agreement dated 30.03.2013 with the respondents by virtue of which DLF agreed to pay the respondents/owners price at the rate of Rs.15 lakh per acre by way of Interest Free Refundable Security Deposit (IFRSD) and as a consequence of which, Rs.15 lakh was received by the land owners. It is as a consequence of this acquisition, a dispute had arisen between the DLF and the owners as a consequence of which, the DLF moved application before the Land Acquisition Collector Urban Estates, Haryana, Gurgaon not to release the compensation for acquired land of the petitioner under

Section 30 of the Act on the grounds that even the DLF has right title and interest in the land subject matter of acquisition and they have spent huge amount of money for its development. The Land Acquisition Collector vide order dated 03.10.2016, dismissed the application holding that an application under Section 30 of the Act was not maintainable and there was nothing sufficient to refer the dispute for adjudication before the Court. The same is subject matter of challenge in this revision.

Upon hearing Mr. Rajeev Anand, Advocate for the petitioner and Mr. Gaurav Jindal Addl.A.G., Haryana, Advocate for the respondent and appreciating the same, Section 29 deals with the particulars of apportionment and is reproduced as below to lay emphasis:-

“29. Particulars of apportionment to be specified.--Where there are several persons interested, if such persons agree in the apportionment of the Compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.”

and further Section 30 of the Act ensures that any disputes over apportionment of compensation needs to be referred for the

decision of the Court. The provisions are reproduced as below:-

“30. Dispute as to apportionment.--

When the amount of compensation has been settled under Section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same to any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”

It needs to be highlighted here that under Section 31 of the Act after pronouncing an award under Section 11 of the Act, the Collector is supposed to tender the payment of the compensation so awarded by him to the interested persons according to the award and pay them unless prevented by someone or more of the contingencies that arise between the parties.

In the present case, a tangible dispute has come about over the interest of various persons who claim to be the developers, the owners of the land subject matter of acquisition of which an award has been passed by the Land Acquisition Collector and, therefore, to the mind of this Court, the only recourse available for the Collector is to refer the dispute as to apportionment before the Reference Court in terms of the provisions of Part V of the Act, having reference to the provisions of Section 31 to 34 of the Act.

Though, on behalf of the petitioner, much support has sought to be taken from the provisions of the right to fair compensation and transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, however, it needs to be referred here that the notification under Section 4 of the Act was published on 07.08.2013 when the new Act had come into force on 01.01.2014 and, therefore, has no retrospective application to the disputes which were there before the coming into force of the new Act. Since, the notification had already been invoked and acted upon, the counsel for the petitioner cannot take any undue advantage of the new Act by any means. The impugned order of the Land Acquisition Collector reflects that rather than acting under the provisions of Part V has on his own tried to sort out the issue which was more off the tangent to the Act by ordering land owners to refund to the developers the Interest Free Refundable Security Deposit (IFRSD) and other payments by virtue of this agreement so executed between the parties and how the Collector had held that the DLF had alternate remedy to claim damages due to acquisition rather does not augur well for the conduct of the Collector who could not even have merely on the basis of statements of the then respondents/land owners could have ordered

that Rs.25 lakh per acre be deposited in Fixed Deposit and for release of the FDR subject to the decision of the plea and which certainly is highly erroneous, illegal and perverse order and needs to be set aside to that extent.

The present petitions stand disposed off directing the Collector to have recourse to the provisions of Part V of the Act and since, the matter is already been adjudicated by the Court of learned Additional District Judge, Gurugram by virtue of reference which as per the own stand of the two sides, is under the new Act certainly is not permissible. The Reference Court to proceed ahead into the matter on the basis of the provisions of the Land Acquisition Act, 1894.

In light of these observations, the present petitions stand disposed off. The parties to have recourse in light of the above said observations.

12.05.2022*Neha***(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No