

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

CR No. 1768 of 2020

Date of decision: 04.03.2022

M/s D.P.I. Marketing Private Limited

..... Petitioner.

Versus

The State of Haryana and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Adarsh Jain, Advocate, for the petitioner.

Mr. Anant Kataria, DAG, Haryana, for respondents No. 1 to 3.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 05.08.2019 whereby its reference petition for determination of the compensation has been dismissed on the ground that it has been filed under Section 18 of the Land Acquisition Act, 1894 ('Act of 1894' - for short) instead of Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('Act of 2013' - for short).

Learned counsel for the petitioner contends that the land of the petitioner was acquired vide notification dated 11.04.2013 issued under Section 4 of the Act of 1894. The acquisition was under the Act of 1894. However, in the meantime, the Act of 2013 came into force w.e.f. 01.01.2014 and the award was passed by the Collector under the Act of 2013. The petitioner was not satisfied with the Award of the Collector and had sought enhancement of the compensation by preferring a reference petition before

the District Judge. However, instead of mentioning Section 64 of the Act of 2013 in the reference petition, Section 18 of the Act of 1894 was inadvertently mentioned and on this count the reference petition was dismissed. He has relied upon the judgment of a Coordinate Bench of this Court in CR No. 5521 of 2019 titled 'M/s Super Seals India Limited vs. The State of Haryana and others', decided on 19.09.2019, wherein in somewhat similar circumstances the Reference Court was directed to follow the procedure under the relevant provisions of the Act of 2013 by treating the reference petition under Section 64 of the Act of 2013.

Issue notice to respondents No. 1 to 3 only.

At the asking of the Court, Mr. Anant Kataria, DAG, Haryana, accepts notice on behalf of respondents No. 1 to 3.

Heard.

The land of the petitioner had been acquired under the Act of 1894. The Act of 2013 came into force w.e.f. 01.01.2014 and the award was passed by the Collector under this Act. The reference petition preferred by the petitioner ought to have been under Section 64 of the Act of 2013. Merely mentioning wrong section could not change the nature of the reference petition which was for enhancement of the compensation. The Reference Court should not have taken a hyper technical view and dismissed the reference petition, as it is well settled law that it is the substance of the petition and not the form or nomenclature, which is determinative.

Consequently, the petition is allowed and the impugned order is set aside. The Reference Court is directed to proceed in accordance with law from the stage of the reference petition preferred by the petitioner for

enhancement of the compensation. The reference petition would be treated under Section 64 of the Act of 2013 instead of Section 18 of the Act of 1894.

04.03.2022
Ramesh

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No