

**133&134 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.CWP-9309-2022 (O&M)

Maya Devi (since deceased) through her L.R
....Petitioner

Versus

State of Haryana and others
..Respondents

2.CWP-9365-2022 (O&M)

Darshan and another
....Petitioners

Versus

State of Haryana and others
..Respondents
Date of decision: 09.05.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajeev Sharma (Raju), Advocate for the petitioners
Mr. Harsh Vardhan, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

By this order two Civil Writ Petitions i.e CWP-9309-2022
and CWP-9365-2022 shall stand disposed of.

Learned counsel representing the parties are ad idem that
the facts of both the writ petitions are identical. Hence, the facts are
noticed from CWP-9309-2022.

Smt. Maya Devi widow of Shiv Charan was owner of the
land, which was subject matter of compulsory acquisition at the hands of
the State of Haryana. The Land Acquisition Collector (hereinafter
referred to as the 'LAC') assessed the amount of compensation while
announcing the award on 15.03.2013. Late Smt. Maya Devi filed an
application under Section 30, 18 and 34 of the Land Acquisition Act,

1894 (hereinafter referred to as 'the 1894 Act') on 5th March 2013. The LAC has refused to refer the matter to the court for reassessment of the market value on the ground that the application filed by the predecessor of the petitioner was premature.

Section 18 of the 1894 Act enables any person interested, who has not accepted the award, to file an application, before the Collector for referring the matter for determination of the market value to the court within the time prescribed. No particular form of application is prescribed.

Learned counsel representing the State of Haryana on instructions from Sh. Naveen, Patwari, LAO, Rohtak, admits that Smt. Maya Devi did not accept the the compensation offered by the LAC. He submits that no application can be filed before the award was passed. He contends that application can only be filed post the date of award passed by the LAC.

This Court has considered the submissions and found that the LAC has wrongly refused to refer the matter to the court. Section 18 of the 1894 Act is extracted as under:-

“Section 18 Reference to Court.

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made,

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”

Any person interested in the compensation is required to indicate to the LAC that he or she does not accept the amount of compensation and want the matter to be referred to the court for reassessment. No particular form of objection or application in this regard has been prescribed. Even if Smt. Maya Devi submitted the application before the award was announced by the LAC and thereafter her legal heirs requested for a reference, the same cannot be rejected being premature. Section 18(2) of the 1894 act prescribes that such an application shall be required to be made within time prescribed in sub section (a) and (b) of section 2. It does not prohibit filing of any application in advance. In the considered view of the Court, the LAC has taken a myopic view of the matter. Hence, the writ petitions are allowed. The LAC is requested to refer the matter to the court for reassessment.

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

09.05.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE