

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

154

CWP-12676-2022

Date of decision: 27.09.2022

VIJAY KUMAR SOOD AND ORS.

..Petitioners

Versus

STATE OF PUNJAB AND ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naresh Kaushal, Advocate
for the petitioners.

Mr. Sandeep Chopra, DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

The petitioners herein pray for the issuance of a writ in the nature of certiorari to quash the order dated 17.09.2021, passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC'), while refusing to refer the matter under Section 76 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act') to the Authority/Reference Court (hereinafter referred to as 'the RC'). The petitioners claim that they are recorded in possession of the property for the last 100 years which was compulsorily acquired. Their application for requesting the LAC to refer the matter under Section 76 of the 2013 Act (which is equivalent to Section 30 of the Land Acquisition Act, 1894), for deciding apportionment as well as the entitlement of the compensation has been rejected while observing that the petitioners have failed to prove their right, title or interest in the property.

Section 76 of the 2013 Act is extracted as under:-

“76. Dispute as to apportionment.—When the amount of compensation has been settled, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is

payable, the Collector may refer such disputes to the Authority.”

A short reply has been filed by the respondents. On instruction from Sh. Yogesh Kumar, Law Officer, GMADA, the learned counsel representing the State submits that the property is owned by the Government of Punjab/Provincial Government, whereas, the same is mortgaged with Inder Devi and others.

It is not disputed that the petitioners are recorded to be in possession of the property for quite some time. Therefore, they fall within the scope of interested persons as defined in the 2013 Act. Consequently, the LAC was required to refer the matter to the Court to adjudicate upon the entitlement as well as apportionment of the compensation.

Keeping in view the aforesaid facts, the order (Annexure P-6) passed by the LAC on 17.09.2021, is set aside. The LAC is requested to refer the matter to the Competent Court for adjudication in terms of the Section 76 of the 2013 Act within a period of one month, from today.

With all these observations, the present petition is disposed of.

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

September 27th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*