

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10656-2018(O&M)
Date of decision:21.03.2022

Suman Mattu

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Chanderhas Yadav, Advocate
for the petitioner.
Mr. Harsh Vardhan, AAG, Haryana.

ANIL KSHETARPAL, J (Oral)

The petitioner prays for issuance of a writ in the nature of mandamus to direct the authorities to pay the compensation amount with interest to her share of acquired land out of joint land measuring 2 kanals 2 marlas located in village Birbarkhatabad, Bahadurgarh, District Jhajjar.

It is not in dispute that the acquisition proceedings were initiated by issuing a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'), on 17.04.2002 and the award under Section 11 of the Act was announced on 25.06.2004. The petitioner claims that her co-sharer was paid compensation on 10.02.2009, where she has been paid the amount of compensation only after filing of the writ petition i.e. 22.12.2019.

Now the only grievance of the petitioner is with regard to her entitlement to the statutory interest payable under Section 34 of the 1894 Act.

The learned counsel representing the petitioner has also submitted that since the amount of compensation was not deposited with the

Court, therefore, she is entitled to the payment of the compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act').

The learned counsel relies upon Section 24 and 114 of the 2013 Act, which are extracted as under:-

24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

114. Repeal and saving.—

(1) The Land Acquisition Act, 1894 (1 of 1894) is hereby

repealed.

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals.”

In the considered opinion of the Court, Section 24 does not apply in the present case as the petitioner is an owner to the extent of 1 kanal and 1 marla of the acquired land out of the acquired land measuring 1227.13 acres. It is not the case of the petitioner that the compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries. Proviso to sub-section 2 of Section 24 will come into operation only if there is material on the record to prove that the compensation in respect of majority of land holdings has not been deposited in the account of the beneficiaries. In the absence thereof, the Section 24 will not apply.

No doubt, this provision of 1894 Act stands repealed in terms of the Section 114 of the 2013 Act. However, on a cogent reading of Clause (a) and (b) of sub-section 1 of Section 24, it is evident that if an award under Section 11 of the 1894 Act has been announced before the 2013 Act came into force, the proceedings shall continue under the provisions of the 1894 Act, as if the said act has not been repealed.

In view thereof, the petitioner is not entitled to compensation under the 2013 Act. However, there is a substance in the alternative argument of the learned counsel representing the petitioner. Section 31 of the 1894 Act makes it incumbent on the Land Acquisition Collector to tender payment of the compensation to the persons interested and if the person interested in the payment does not consent to receive it or if there is

no person competent to alienate the land or if there is any dispute as to title to receive the compensation or as to the apportionment, the Land Acquisition Collector is required to deposit the same amount of compensation in the Court to which the Reference under Section 18 would be submitted.

Section 34 of the 1894 Act provides that when the amount of such compensation is not paid to persons interested or deposited in the Reference Court, the Collector shall pay the amount awarded with the interest thereon @ 9% per annum for a period of one year from the date on which the possession is taken and thereafter with the interest @ 15% per annum from the date of expiry of the said period of one year on the whole amount of compensation or the part thereof that has not been paid or deposited till the payment.

The learned counsel representing the respondent-State failed to draw the attention of the Court to any circumstance which may lead the Court to deny the petitioner the statutory interest on the amount of the said compensation.

Keeping in view the aforesaid facts, the writ petition is disposed of with a direction to the respondents to pay the amount of interest in accordance with the provisions as mentioned in the Section 34 of the 1894 Act.

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

March 21, 2022

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Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No

(ANIL KSHETARPAL)
JUDGE