

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17208 of 2017(O&M)
Date of decision:28.03.2022

Hira Lal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raman Sharma, Advocate,
for the petitioner.

Mr. Kanisth Ganeriwala, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

By invoking the extra-ordinary jurisdiction of this Court, the petitioner has prayed for the following reliefs:-

- “i) Issue a writ in the nature of certiorari quashing impugned order P-8 dated 20.03.2017 passed by respondent no.2.*
- ii) Issue any other appropriate writ order or direction which this Hon'ble Court may deem fit under the peculiar facts and circumstances of this case directing respondents no.1 and 2 to determine and pay compensation to the petitioner under the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013 for his land situated in village Bassi Gulam Hussain.”*

In order to acquire the land, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') was issued on 31.12.2004 and the notification under Section 6 of the 1894 Act was issued on 30.05.2005. The petitioner claims that the possession of the land was taken by the Government by invoking the urgency provision under

Section 17 of the 1894 Act, on 03.11.2005. He also received 50% compensation as assessed by the Collector under Section 17(3) of the 1894 Act.

The petitioner claims that since the award was not passed within the period specified under Section 11 of the 1894 Act, therefore, the petitioner is entitled to the compensation under the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

The State has defended its action on the ground that Section 11 of the 1894 Act is not applicable to the acquisition under Section 17 of the 1894 Act. He relies upon the judgment passed in **M.S.Kang vs. State of Punjab and another** (Civil Writ Petition No.5403 of 2009, decided on 05.05.2009). In the aforesaid judgment, the various judgment passed by the Supreme Court have been relied upon.

The learned counsel representing the petitioner does not dispute the aforesaid position of law. However, the learned counsel submits that the petitioner's land to the extent of 7 Kanals 1 Marla has not been acquired, although, its possession has been taken over.

The Land Acquisition Collector announced the award on 10.05.2008 and thereafter, on an application of the petitioner, the matter has also been adjudicated by the Court under Section 18 of the 1894 Act.

Keeping in view the aforesaid facts, the writ petition is disposed of while directing the Land Acquisition Collector, Dholbaha Dam Construction Circle, Hoshiarpur, to examine the matter and take steps in accordance with law.

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

March 28, 2022
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(ANIL KSHETARPAL)
JUDGE

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