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Civil Revision No. 295 of 2020 (O&M)

Neutral Citation No. 2023:PHHC:127924

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

Civil Revision No. 295 of 2020 (O&M)

Date of Decision: 03.10.2023

M/s. Samanata Private Limited, Faridabad

..... Petitioner

Versus

The State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Hardeep Singh, Advocate for
Mr. Ram Bilas Gupta, Advocate
for the petitioner.

Mr. Abhinash Jain, Deputy Advocate General, Haryana
for respondent Nos. 1 & 2.

HARKESH MANUJA, J.

The petitioner-landowner, a private limited company, by filing the present revision petition, seeks setting aside of the order dated 13.09.2019 (**Annexure P-3**) passed by learned Additional District & Sessions Judge, Faridabad (for short “Reference Court”), whereby the reference petition filed at its instance having invoked Section 18 of the Land Acquisition Act, 1894 (hereinafter to be referred as “the Act”), was rejected on the ground that the same was required to be filed under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

[2] In the present case, the land owned by petitioner, situated in Village Anangpur, H.B. No. 2, Tehsil & District Faridabad, was acquired for

the public purpose of construction of service road and drain-cum-footpath along metro viaduct on the western side of Delhi Mathura Road and parking on the eastern side of Delhi Matura Road. Notification under Sections 4 & 6 of the Act was issued on 11.04.2013 & 19.08.2013 respectively, whereas the Award No. 7 in exercise of powers under Section 11 thereof was passed on 08.05.2015.

[3] Being dissatisfied, the petitioner filed reference under Section 18 of the Act, which was forwarded by the Land Acquisition Collector, Faridabad (for short “the Collector”) to the Reference Court. The issues were framed by the Reference Court, followed by recording of evidence of both the sides.

[4] Finally, vide order dated 13.09.2019, the Reference Court rejected the reference petition being not maintainable by making following observations in para Nos. 22 to 24:-

“ 22. In such a situation, it was incumbent upon the petitioners to file the reference under section 64 of the New Act, 2013 against the impugned award. But the petitioners of the present petition filed the objections under section 18 of Old Act, 1894. Under Old Act, 1894 the reference court while determining the compensation is duty bound to consider the factors mentioned under section 23. Under new enactment the court/authority is duty bound to determine the market value of the land and consider other factors as mentioned under section 69 of the New Act, 2013 The provisions of Old Act, 1894 and New Act, 2013 in respect of determination of the value of the land materially different from each other. Pleadings under section 64 of the new enactment are required to be made in consonance with its provisions

and not in accordance with the provisions of Old Act, 1894. Therefore, this court/authority is of the opinion that the objections under section 18 of the Old Act, 1894 filed by the petitioners and reference made to this court by Land Acquisition Collector are not maintainable.

- 23.** *As a result of above discussion, this court is of the opinion that objections filed by the petitioners against the impugned award dated 8.5.2015 are not maintainable. Land Acquisition Collector made references without looking into the provisions of new Act. Therefore, the reference petitions can not be answered in the absence of proper pleadings. However, the petitioners are at liberty to file the objections under the New Act, 2013, if so advised, as per law. Accordingly, the reference petitions stand dismissed and answered leaving the parties to bear their own costs.*
- 24.** *Before parting with this award this court with heavy heart is of the view that the petitioners acted ignorantly and it appears that it was not having knowledge of the latest enactment. It has not been properly advised. Even Land Acquisition Collector acted in a mechanical manner and forwarded the reference petitions to this court under section 18 of the Old Act, 1894. It has consumed the valuable time, money, energy of the petitioner as well as of all the concerned quarters of the State. ”*

[5] I have heard learned counsel for the parties and gone through the paper book and find substance in the present revision petition.

[6] In the present case, the acquisition proceedings though initiated under the Old Act of 1894, culminated with the passing of the award dated 08.05.2015 under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

[7] Applying the ratio of **decision dated 19.09.2019** passed in **CR No. 5521 of 2019** by the Co-ordinate Bench, in case titled “**M/s Super Seals India Limited Versus The State of Haryana and others**”, where under similar circumstances, in exercise of its supervisory revisional jurisdiction under Article 227 of the Constitution of India, this Court while setting aside the order passed by the Reference Court, directed the conversion of reference filed under Section 18 of the Old Act of 1894 into a reference under Section 64 of the New Act, 2013 with a direction to the Reference Court to proceed in accordance with the New Act of 2013 from the stage of recording of evidence. The relevant portion from the decision dated 19.09.2019 passed in **M/s Super Seals case (supra)** is reproduced as under:-

“ This Court is of the view that even if, procedures are different, in the present case, petitioner/appellant has led evidence for enhancement of the compensation and after leading such evidence, the Reference court is required to follow the procedure under the relevant provisions of the New Act, 2013.

Hence, in order to save time of the Court as well as the litigant, this Court suo motu proceeds to exercise powers under the revisional jurisdiction. Resultantly, the impugned order(s) dated 25.07.2019 are set aside and the reference under Section 18 of the Old Act of 1894 for enhancement of the compensation of the acquired land is being converted into the reference under Section 64 of the New Act of 2013. A direction is now being given to the Reference Court to proceed in accordance with the New Act of 2013 from the stage of recording the evidence. However, liberty is granted to the petitioner(s) to make any application, in accordance with law, for recalling of any other order, which has/have been passed with respect to the acquired land of Village Anangpur, H.B. No.2, Tehsil & District Faridabad.”

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[8] In view of the above, while exercising supervisory revisional jurisdiction, the impugned order dated 13.09.2019 passed by the Reference Court is hereby set aside with a direction to treat the reference filed under Section 18 of the Old Act of 1894 to be a reference under Section 64 of the New Act of 2013 with further direction to the Reference Court to decide the same in accordance with the provisions of New Act of 2013 from the stage of recording of evidence.

[9] **Disposed off**, accordingly.

[10] Pending miscellaneous application(s), if any, shall also stand disposed off.

October 03, 2023

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(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>