

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

101-A

**CR-2826-2011 (O&M)
Date of Decision: 17.11.2023**

M/s Adelphi Finance Private Limited

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. M.L. Sarin, Senior Advocate with
Ms. Hemani Sarin, Advocate for the petitioner(s).

Mr. P.S. Saini, Advocate for the respondents.

HARKESH MANUJA, J. (oral)

1. By way of present civil revision, challenge has been made to an order dated 25.11.2010 (Annexure P-4) passed by the Executing Court in Execution Case No.707 of 2008 titled as 'M/s Adelphi Finance Pvt. Ltd. Vs. State of Haryana and another', whereby the said execution petition filed at the instance of the petitioner stands dismissed.

2. Based on an award dated 01.05.1998 passed by the Reference Court in exercise of Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'), aforementioned execution petition was filed at the instance of the petitioner. Pursuant to the aforementioned award certain payment was deposited by the Land Acquisition Collector before the Executing Court.

3. Learned Senior Counsel for the petitioner submits that the grouse of the petitioner is that the Executing Court while passing the impugned order dated 04.09.2010 failed to take into consideration the principles of law laid down by the Hon'ble Apex Court in case of Gurpreet Singh Vs. Union of India, 2006 (8) SCC 457, on the point of appropriation of the compensation amount deposited by the judgment-debtor. The Executing Court even failed to consider the claim of the petitioner-landowner as regards the benefit of solatium and additional compensation as well as interest thereupon.

4. On the other hand, learned counsel for the respondents submits that the entire payment towards enhanced compensation stands made in favour of the petitioner-landowner as per law and nothing remains due towards it, thus, the order passed by the Executing Court warrants no interference. He also places on record Forms-'D' duly attested by the Land Acquisition Officer (for short 'L.A.O.'), Faridabad, in the Court today, the same are taken on record as Marks-'W', 'X', 'Y' and 'Z'.

5. I have heard the learned counsel for the parties and gone through the paper-book.

6. A perusal of order sheet shows that on 02.04.2012, this Court directed respondents to place on record Forms-'D' i.e. the documents vide which the payment of enhanced compensation was deposited with the Reference Court by the L.A.O. Affidavit dated 27.11.2013 filed in this regard by the then L.A.O., shows that though,

details of compensation deposited before Executing Court was mentioned therein, however, Forms-‘D’ were not attached with it although, the same has now been produced by learned counsel representing respondents and have been made part of the record. A perusal of aforesaid Forms-‘D’, shows that at the time of deposit of enhanced amount of compensation before the Executing Court, it has nowhere mentioned that the same has to be first appropriated towards the principal amount or the interest or cost. Accordingly, in terms of law laid down in case of Gurpreet Singh (*supra*), the petitioner/decreed-holder has been at liberty to appropriate the same first towards the interest, then towards cost and lastly towards principal. Relevant observations made in this regard in paragraph 53 of the case of Gurpreet Singh (*supra*) are reproduced hereunder:-

“ 53. Thus, on the whole, we are satisfied that the essential ratio in the Prem Nath Kapur on appropriation being at different stages is justified though if at a particular stage there is a shortfall, the awardee-decree-holder would be entitled to appropriate the same on the general principle of appropriation, first towards interest, then towards costs and then towards the principal, unless, of course, the deposit is indicated to be towards specified heads by the judgment-debtor while making the deposit intimating the decree-holder of his intention. We, thus, approve the ratio of Prem Nath Kapur on the aspect of appropriation.”

7. In view of the discussion made hereinabove, there being no specific indication made in Forms-‘D’, as regards the deposit being either towards interest, cost or principal, the petitioner is at liberty to

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appropriate the same first towards interest, then costs and then towards principal.

8. Resultantly, the revision petition is allowed. The order dated 25.11.2010 (Annexure P-4) passed by the Executing Court in Execution Case No.707 of 2008 titled as 'M/s Adelphi Finance Pvt. Ltd. Vs. State of Haryana and another', is hereby set aside and the matter is sent back for its fresh adjudication, so as to effect the appropriation and release of enhanced amount of compensation in favour of the petitioner in accordance with law laid down in case of Gurpreet Singh (*supra*). The Executing Court shall also consider the claim of the petitioner as regards the benefit of solatium as well as additional compensation including the statutory interest thereupon. The parties are directed to appear before the Executing Court on 11.12.2023.

9. Considering the fact that the acquisition in the present case commenced in the year 1992 and the petitioner is still awaiting release of enhanced amount of compensation, the Executing Court is requested to conclude the execution proceedings within a period of 03 months, from the receipt of certified copy of this order.

10. Pending application(s), if any, shall also stand(s) disposed of.

17.11.2023

Mangal Singh

(HARKESH MANUJA)
JUDGE

Whether Speaking / Reasoned:	Yes	No.
Whether Reportable :	Yes	No.