

[1]

Civil Revision No. 953 of 2020 (O&M)

2023:PHHC:098550

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

Civil Revision No. 953 of 2020 (O&M)

Date of Decision: 01.08.2023

Nitin Mahajan and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Manoj Kumar Sood, Advocate
for the petitioners.

Mr. Abhinash Jain, Deputy Advocate General, Haryana.

Mr. Ankush Chowdhary, Advocate
for respondent No. 4.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to the order dated 01.08.2019 passed by the learned Additional District Judge, Faridabad (for short “Reference Court”), whereby the reference filed under Section 18 of the Land Acquisition Act 1894 (for short “the Act”), at the instance of petitioners-land owners, has been dismissed being not maintainable.

[2] In the present case, the land owned by the petitioners, situated in Village Mewala Maharajpur, H.B. No.4, Tehsil Ballabgarh, District Faridabad, was acquired for the public purpose of construction of elevated metro corridor from Badarpur border to YMCA Chowk, Faridabad.

Notification under Sections 4 & 6 of the Act was issued on 12.02.2013 & 09.09.2013 respectively, whereas the Award No.3 in exercise of powers under Section 11 thereof was passed on 08.05.2015.

[3] Being dissatisfied, the petitioners 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 01.08.2019, the Reference Court rejected the reference petition being not maintainable by making following observations in para Nos.21 to 23:-

“ xxx xxx

21. 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. Thereafter, 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.

- 22.** *As a result of above discussion, this court is of the opinion that objection filed by the petitioners against the impugned award dated 08.05.2015 is not maintainable. Land Acquisition Collector made reference without looking into the provisions of new Act. Therefore, the reference petition cannot 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 petition stands dismissed and answered leaving the parties to bear their own costs.*
- 23.** *Before parting with this award this court with heavy heart is of the view that the petitioners acted ignorantly and it appears that they were not having knowledge of the latest enactment. They have not been properly advised. Even Land Acquisition Collector acted in a mechanical manner and forwarded the reference petition to this court under section 18 of the Old Act, 1894. It has consumed the valuable time, money, energy of the petitioners as well as of all the concerned quarters of the State. Memo of cost be prepared accordingly. Reference file be consigned of records. ”*

[5] I have heard learned counsel for the parties and gone through the paper book and find the 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.”

[8] In view of the above, while exercising supervisory revisional jurisdiction, the impugned order dated 01.08.2019 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.

August 01, 2023
'yogesh / dk kamra'

(HARKESH MANUJA)
JUDGE

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