

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-5461-2022 (O&M)
Date of Decision: 16.11.2023

Anita Rewal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rajiv Kataria, Advocate for the petitioner.

Mr. Arun Beniwal, Sr. DAG Haryana.

HARKESH MANUJA, J. (oral)

CM-18509-CWP-2023

Prayer in the application is for placing on record, replication to the written statement filed at the instance of respondent Nos.1 and 2.

For the reasons mentioned in the application, the same is **allowed**. Replication by the petitioner to the written statement filed at the instance of respondent Nos.1 and 2 is taken on record.

Main case:

1. Prayer in the writ petition is for release of complete/full amount of compensation along with statutory interest as awarded and payable in favour of the petitioner, on account of acquisition of her land

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in pursuance to an award dated 02.08.2016, in compliance of Section 80 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act').

2. Briefly stating, vide Notifications dated 30.12.2013 and 06.08.2014 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act') respectively, vide which 6.92 acres of land, including land measuring 6 *kanal* and 14 *marla* in *Mustakil* No.28, *Killa* No.17 owned by the petitioner, situated in the revenue estate of village Gawal Pahari, Tehsil and District Gurugram, came to be acquired for the purpose of Water Works sites, widening of existing road and development of green belt. The award was passed on 02.08.2016 by the Land Acquisition Collector, Urban Estate, Gurugram (for short 'LAC').

3. Learned counsel for the petitioner submits that the petitioner being a permanent resident of Delhi, neither she knew about acquisition proceedings, nor any notice qua the proceedings initiated against her land, under 1894 Act was ever served upon her. The petitioner earlier approached this Court by way of a writ petition bearing No. CWP-5924-2021 titled as 'Anita Rewal Vs. State of Haryana and Ors.', seeking release of amount of compensation along with statutory interest and the same was disposed of vide order dated 14.10.2021, which reads as under:-

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“The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Through this writ petition, the petitioner prays for a direction to the respondent to release the amount of compensation along with the statutory interest in view of the Award dated 02.08.2016, for the acquired land.

On 15.03.2021, notice of motion was issued.

Sh. N.S. Behgal, Assistant Advocate General, Haryana, has entered appearance on behalf of the respondents and on instructions from Mr. Vijay, DRO-cum-LAC, HUDA, Gurugram, submits that the payment in accordance with the award shall be released within a period of one week.

Keeping in view the aforesaid facts, the present writ petition is rendered infructuous and is disposed of as such.

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

4. In pursuance thereof, a sum of Rs.5,82,25,592/- was released in favour of the petitioner on 26.11.2021. Learned counsel for the petitioner further submits that in the present writ petition, the grouse of the petitioner is that though the possession of the acquired land was taken over by the respondents on 02.08.2016 i.e. the date of passing of the award vide *rapat* No.1067, yet no compensation was released in her favour till 26.11.2021 and therefore, she was entitled for grant of statutory interest in consonance with Section 80 of 2013 Act.

5. On the other hand, learned State counsel submits that the delay in release of amount of compensation was purely attributable to the petitioner who failed to furnish Form-CC at the initial stage which

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was later submitted only on 21.10.2020 and the compensation was released immediately thereafter, on 26.11.2021 and thus, there was no delay on the part of respondent-State while releasing the amount of compensation and the petitioners was not entitled for any interest as per Section 80 of 2013 Act.

6. I have heard the learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

7. A perusal of record shows that award in the present case was passed on 02.08.2016 and the possession of the land in question was taken over by the respondent-State on the same day vide *Roznamcha/Rapat* entry No.1067 and this fact was even admitted by the Officials of HSVP in their reply dated 06.06.2022 (Annexure P-5) to an RTI application made by the petitioner, however, the payment of compensation was released only on 26.11.2021. Evidently, there was an inordinate delay of more than 5 years in release of compensation in favour of the petitioner, at the hands of respondents. Apparently, the explanation rendered by the respondents in the written statement as regards non-furnishing of Form-CC by the petitioner-landowner was wholly uncalled for, as in the present case not even a single statutory notice as contemplated under the provisions of 1894 Act which could be served upon the petitioner, was placed on record, so as to show that she was ever made aware of the acquisition proceedings. Moreover, the respondents were not able to show any statutory requirement of

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furnishing Form-CC by the petitioner-landowner, either under any statutory provision of 1894 Act or 2013 Act; nor even any of the other subordinate Legislations enacted thereunder. Furthermore, as per the mandate laid down under Section 77(2) of 2013 Act, no steps were taken by respondent No.2 to deposit the amount of compensation payable to the petitioner, before the authority to which reference under Section 64 could be submitted, seeking enhancement and thus having utilized the same, the liability to pay statutory interest thereupon as provided under Section 80 of 2013 Act cannot be refused.

8. In view thereof, the delay in disbursement of compensation ostensibly cannot be attributed to the petitioner-landowner by any stretch of imagination and particularly in terms of defence taken by the respondents in the written statement.

9. Resultantly, the present writ petition is allowed with a direction to the respondents to release the full amount of compensation in favour of the petitioner, upon calculating the statutory interest as payable under the provisions of 2013 Act, in particular Section 80 thereof and disburse the same, within a period of 8 weeks from today.

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

16.11.2023

Mangal Singh

**(HARKESH MANUJA)
JUDGE**

Whether Speaking / Reasoned :
Whether Reportable :

Yes
Yes

No
No