

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

**CWP-6796-2019 (O&M)
Decided on:-17.08.2023**

Om @ Om Parkash and others

....Petitioners.

vs.

Union of India and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ramesh Hooda, Advocate for the petitioners.

Mr. Rishi Kaushal, Advocate for the respondent No.1 and 3.

Mr. Abhinash Jain, DAG, Haryana,
for respondent No.2-State.

HARKESH MANUJA J. (Oral)

1. By way of present writ petition, prayer has been made for directing the respondents to pay interest @18% per annum on the delayed release of amount of compensation against acquisition of 4 kanals and 5 marlas of land owned by the petitioners, situated in village Meham, Tehsil Meham, District Rohtak.

2. Briefly stating, land measuring 10 kanals and 3 marlas owned by the petitioners was acquired vide notification dated 09.10.2014 under Section 3A(1) of the National Highways Act, 1956 (hereinafter referred to as "1956 Act"), followed by notification dated 06.02.2015, under Section 3-D(1) of the 1956 Act. Award under Section 3-G of the 1956 Act was passed by the Land Acquisition Collector on 05.10.2015 and possession was taken

immediately thereupon.

3. Although, compensation regarding 5 kanals and 18 marlas of land owned by the petitioners was released in their favour on the date of taking possession, however, the same qua remaining land measuring 4 kanals and 5 marlas was withheld by respondents, which was released after a period of more than 2 years and 6 months i.e. on 13.04.2018.

4. By way of present writ petition, grant of interest on the delayed payment of the amount of compensation qua 4 kanals and 5 marlas, which was though required to be released on the date of taking over of possession i.e. 05.10.2015, however, the same was released on 13.04.2018.

5. Learned counsel for the petitioners submits that neither any dispute of apportionment qua 4 kanals and 5 marlas of land was pending nor the amount was ever deposited with the Reference Court by respondent No.2 in exercise of powers under Section 3H(4) of 1956 Act and thus, respondents were liable to pay interest on the delayed released of compensation.

6. On the other hand, learned counsel representing respondent No.3 submits that there was no delay on its part as the amount of compensation was to be assessed and released by respondent No.2. He further submits that the demand qua the amount of compensation regarding 4 kanals and 5 marlas of land was raised by respondent No.2 from respondent No.3 in April, 2018 only and the same was immediately deposited thereafter, followed by its release in favour of the petitioners. Besides it, learned counsel representing respondent No.2 refers to para 4 of the preliminary submissions made in the written statement filed on its behalf to contend that a dispute regarding shares in the remaining land measuring 4 kanals and 5 marlas was got corrected by the petitioners from the revenue authorities in

the year 2018 and the same was verified by Halqa Patwari on 06.04.2018 and it was thereafter, on due verification of the record, the amount was immediately released in favour of the petitioners on 13.04.2018 and thus, there was no delay in disbursement of the amount of compensation.

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

8. A perusal of record shows that the award in the present case was announced on 05.10.2015 qua the land measuring 10 kanals & 3 marlas and possession of which was taken immediately thereafter by respondent No.3. Although, the compensation qua land measuring 5 kanals and 18 marlas of land was released in favour of the petitioners as per the award on the same day, however, compensation qua 4 kanals and 5 marlas of land was released only on 13.04.2018 and justification rendered in the written statement by respondent No.2 was that some dispute about the shares in the same was pending with the revenue authorities, which was got corrected in April 2018 only.

9. Perusal of written statement filed on behalf of respondent No.2 shows that besides making bald statement about correction of records, no document or order passed by any revenue authority or even any revenue document to this effect has been produced on record to support the same so as to justify the delay in disbursement of the amount of compensation. In the absence of any document to support, no such plea as raised by respondent No.2 can be relied upon.

10. A meaningful reading of Section 3-G(1) and 3(H)(1) of the 1956 Act, shows that in pursuance to the acquisition of land under this Act,

the amount of compensation has to be determined by the competent authority i.e. respondent No.2, which has to be deposited by the Central Government with the competent authority before taking possession of the land. Section 3-G(1) and 3-H(1) of the 1956 Act are reproduced hereunder:-

3-G(1) Determination of amount payable as compensation-

(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

3-H (1).Deposit and payment of amount-

(1) The amount determined under Section 3-G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.”

11. Thus, as per the aforementioned provisions, even if there was some dispute regarding the apportionment of the compensation, the amount of compensation qua the remaining land i.e. 4 kanals and 5 marlas was still required to be determined-assessed by the competent authority and deposited as per the rules before the Central Government could take possession of the land. Unless the aforementioned procedure is followed, the possession taken by the respondents would be in violation of article 300-A of the Constitution of India which is very categorical that “no person shall be deprived of his property save by authority of law”. To the contrary, in the present case, though the possession of the land was taken by respondent No.3 on 05.10.2015, whereas, the amount of compensation against it was released in favour of the petitioners only on 13.04.2018 and thus, undisputedly, the respondents were liable to pay interest thereupon from 15.10.2015 to 13.04.2018.

12. With the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 2013 Act), in present case also, award has been determined as per the provisions of the 2013 Act, which is also apparent from the contents of the award itself, relevant part of which is reproduced here under:

“All the awards of compensation made on or after 01.01.2015 for acquisition of land under NH-Act, 1956, will be as per the First Schedule of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013). Accordingly, the following rates of land were decided on 26.06.2015 as per instructions of the Govt. of Haryana, Revenue & Disaster Management Department letter no. 1917-R-5- 2014/15193 dated 12.11.2014.”

13. When the computation of compensation has been in accordance with 2013 Act, in the circumstance, when compensation is neither paid nor deposited before taking possession of the land, payment of interest on the amount of compensation also has to be governed by Section 80 of the 2013 Act, which reads as under:

“Section 80- *When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent per annum from the time of so taking possession until it shall have been so paid or deposited:*

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such

expiry. “

14. Therefore demand of interest on account of delayed payment of compensation is not only judicious but also has a statutory mandate and respondents, being bound by their statutory obligations, are required to pay the same. In view of the fact that the payment in the present case qua remaining land measuring 4 kanals and 5 marlas was released in favour of the petitioners on 13.04.2018, respondent No.2 shall be liable to pay interest on the delayed payment w.e.f. 05.10.2015 to 13.04.2018 in terms of Section 80 of 2013 Act.

15. Accordingly, present petition stands disposed of.

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

17.08.2023
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(HARKESH MANUJA)
JUDGE

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