

311 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2040-2023

Reserved on:-19.10.2023

Pronounced on:-22.12.2023

Haryana State Industrial and Infrastructure Development
Corporation Ltd. (HSIIDC)

....Petitioner..

vs.

M/s ARS Enterprises Pvt. Ltd and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Pritam Singh Saini, Advocate for the petitioner.

Mr. Amit Jain, Sr. Advocate with
Mr. Amit Jain, Advocate and
Mr. Anupam Mathur, Advocate for respondent No.1.

Mr. Shivendra Swaroop, DAG, Haryana,
for respondents No.2 and 3.

HARKESH MANUJA J.

1. By way of present revision petition, challenge has been laid to an order dated 30.11.2022, passed by the Additional District Judge, Rewari, to the extent whereby the respondents-landowners have been held entitled for award of statutory interest w.e.f. 10.05.2013 to 20.09.2017 i.e. the date of passing of the award and taking possession of acquired land, till the date of deposit of compensation by applying the mandate of Section 34 of Land Acquisition Act, 1894 (herein after referred to as "1894 Act").

2. In the present case, the land in question situated in the revenue estate of Village Malpura, Tehsil Dharuhera, District Rewari, came to be acquired vide notifications dated 13.05.2010 and 12.05.2011, issued under

Sections 4 and 6, respectively, of the 1894 Act. Award under Section 11 of

the 1894 Act was announced on 10.05.2013. The acquisition was carried out for development and extension of Sectors 15, 16 and 17, Dharuhera as an integrated complex for industrial and other public utilities.

3. Aggrieved of the acquisition proceedings, challenge to it was laid vide Civil Writ petition No.19320 of 2011, wherein *status quo* with regard to possession of the property was ordered to be maintained by this Court on 17.10.2011. The said writ petition was disposed of vide order dated 29.11.2013. Still aggrieved, SLP was filed by the landowners before the Hon'ble Apex Court, wherein again *status quo* regarding possession was ordered on 01.07.2014, however, the matter later concluded before the Hon'ble Apex Court with the withdrawal of SLP on 24.04.2018.

4. In the meanwhile, the amount of compensation as per the award dated 10.05.2013 qua the landowner-respondent No.1 was deposited with the Reference Court on 20.09.2017. Respondent No.1 moved an application before the Reference Court, claiming interest from the date of award dated 10.05.2013 till 20.09.2013 i.e. the date of deposit of amount of compensation by the petitioner before the Reference Court; asserting that the possession of the acquired land was taken-over by the State immediately on the date of award. The Reference Court granted the aforesaid claim in favour of respondent No.1-landowner, vide its order dated 30.11.2022.

5. Impugning the aforementioned order, learned counsel for the petitioner submits that despite having passed the award on 10.05.2013, in the wake of *status quo* order been passed by this Court on 17.10.2011; later continued by the Hon'ble Supreme Court, the possession of land in question was never taken over by the petitioner from the respondent-landowner. In

this regard, learned counsel for the petitioner also relied upon the award dated 10.05.2013, wherein, it was recorded that the possession of the acquired land except that against which order of stay regarding dispossession was passed by this Court was taken over after offering compensation to the landowners/interested persons vide Rapat No.499 dated 10.05.2013. Learned counsel also relied upon the following documents:-

- (i). Rapat Roznamcha No.295 dated 12.02.2019, prepared under the signatures of Incharge Kanungo and JE/AM HSIIDC, whereby, the possession of the land in question was taken over by HSIIDC.
- (ii). Roznamcha No.730 dated 02.08.2013, to contend that the possession of the remaining land excluding that of the respondents was taken.

Based on the aforestated documents, learned counsel vehemently contended that the possession of the land in question was never ever taken over by the HSIIDC before 12.02.2019 and thus, the amount of compensation been deposited with the Reference Court on 20.09.2017, respondent No.1-landowner was not entitled for any interest thereupon.

6. On the other hand, learned Senior counsel representing respondent No.1 relied upon the award dated 10.05.2013 to point out that as per the same, the possession of acquired land was taken over by the State vide rapat No.499 dated 10.05.2013, which included the entire land under acquisition i.e. the land belonging to respondent No.1 as well. He also relied upon the written reply dated 28.02.2017, submitted by the Naib Tehsildar, Dharuhera as well as the Sub-Registrar, Dharuhera, District Rewari before the

Company Court in High Court at New Delhi in Company Petition No.26 of 1997, titled as “M/s ARS Enterprises Pvt. Ltd vs. The Tehsildar, Malpura, Dharuhera, District Rewari and another”, wherein it was categorically stated that the possession of the acquired land had already been taken over by HSIIDC, in pursuance to award No.2. The relevant para No. 14 thereof is reproduced as under:-

“14. That para no.14 of the petition as stated is wrong and hence denied. It is submitted that the possession of the land has already been taken by the HSIIDC in the acquisition proceedings and the Award No.2 has also been announced, therefore, it is wrong that the possession of the petitioned land is with the applicant/petitioner. Rest of the para is wrong and hence denied.”

In addition, learned Senior counsel also referred to the letter dated 24.07.2013, written under the signatures of Assistant General Manager (IA), HSIIDC to the office of Naib Tehsildar, Dharuhera, District Rewari, wherein again while referring to Rapat No. 499 dated 10.05.2013, it was recorded that the symbolic possession of land in question was handed over to the petitioner though in the later part reference to *status quo* order was also made. Thus, it was submitted that the possession of the entire acquired land was since taken over on the date of passing of the award i.e. 10.05.2013 and therefore, the respondent-landowner was entitled for statutory interest thereupon till its deposit in the Reference Court.

7. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

8. A conjoint reading of rapat No.499 dated 10.05.2013, the letter

dated 24.07.2013, issued under the signatures of Assistant General Manager, HSIIDC to Naib Tehsildar, Dharuhera as well as the reply dated 28.02.2017, submitted by the Naib Tehsildar, Dharuhera jointly with Sub-Registrar before the Delhi High Court, it is more than evident that the symbolic possession of the acquired land belonging to respondent No.1-landowner was taken over by the State with the passing of the award only on 10.05.2013 though a repeated effort was being made to justify and create a distinction between the symbolic possession and the physical possession in the wake of *status quo* order passed by this Court on 17.10.2011.

9. From the records of the present case, the following details can be traced out to sum-up that the factum of taking over of symbolic possession of the entire acquired land including that of respondent No.1-landowner immediately on passing of the award was admitted by the petitioner:-

(a) From the contents of the communication dated 24.07.2013 written by the office of Assistant General Manager, HSIIDC to the office of Naib Tehsildar, Sub-Tehsil, Dharuhera, District Rewari, wherein it was clearly mentioned that the paper possession-symbolic possession of the acquired land belonging to village Malpura was handed over to HSIIDC vide rapat No.499 dated 10.05.2013. The relevant contents thereof are reproduced hereunder:-

“..... The award was announced by the SDO(c) Cum LAC, Rewari on 10.05.2013 and the paper possession has been transferred in favour of Haryana State Industrial and Infrastructure Development Corporation Ltd. (HSIIDC), vide Rapat No.503 dated 10.05.2023 for village Kapriwas, Rapat No.499 dated 10.05.2013 for villages Malpura and Rapat No.504 dated 10.05.2013 for village Ghatal Mehaniawas entered in Rojnamcha Halka Waqiat of concerned village. As the HSIIDC

has to fence the area by providing toe wall around periphery of the land acquired. During the period of announcement of award and till date, the Hon;ble High Court of Punjab and Haryana, Chandigarh has granted the status quo in some of the cases filed by the ex-land owners. Moreover, the State Govt. has recommended to release some land/Khasra Nos. from the acquisition. The detail of these Khasra Nos. under status quo/to be released are annexed at Annexure 1 & II.

You are, therefore, requested to hand over the physical possession of the land mentioned in the awards (copies enclosed) excluding the presently the Khasra Nos./area mentioned in annexure-I & II. Regarding, the physical possession of other khasra nos., which are in courts, the matter will be taken up when status quo/decision to be intimated by the competent court/authority.

Please treat it as most urgent and take action on priority basis.....”

(b) The own admission made by the petitioner-HSIIDC in its grounds of revision petition where in paragraph 9, the factum of taking symbolic possession of land in question vide rapat No.499 by the revenue department has been admitted. Further, rapat No.499 dated 10.05.2013 forms part of the paper book and the details of land owned by the respondent-landowner even finds mentioned therein. Para 9 of the grounds of revision petition being relevant is thus reproduced hereunder:-

*“9. That it may not be out of place to mention here that the actual possession actually was not taken of the land on 10.05.2013 when the Award was passed, **rather from the perusal of the rapat number 499 entry by the Revenue Department it is clear that the symbolic possession of ownership only was taken with the condition that if anybody has any objection with regard to ownership can file objections before the Assistant General Manager (ID), Industrial Area, Bawal.** However, no objection as ever filed by the respondent when a notice under Section 9 of the Land Acquisition Act was served upon the original company.”*

(c) Admission made by the Tehsildar Malpura, Dharuhera and the Sub-Registrar, Malpura, Dharuhera in their reply dated

28.02.2017 before the Delhi High Court in Company Petition No.26 of 1997, titled as “*M/s ARS Enterprises Pvt. Ltd. vs. The Tehsildar Malpura, Dharuhera, District Rewari and another*” regarding taking over of possession of the acquired land by the HSIIDC. Relevant paragraphs No.14 thereof is reproduced here under:-

“14. That para No.14 of the petition as stated is wrong and hence denied. It is submitted that the possession of the land has already been taken by the HSIIDC in the acquisition proceedings and the Award No.2 has also been announced, therefore, it is wrong that the possession of the petitioned land is with the applicant/petitioner. Rest of the para is wrong and hence, denied.”

10. On the other hand, the reliance placed upon the rapat dated 12.02.2019 by the petitioner to contend that the possession of the land owned by respondent No.1-landowner was actually delivered to it vide said document, is wholly misplaced. Importantly, the question is not as to when the actual possession was delivered to the petitioner-HSIIDC, rather the issue is as to when the possession of land in question was taken over by respondent No.2-Land Acquisition Collector. In the present case, it has been clearly established from the detailed discussion made herein above that the possession of the land in question alongwith other acquired land of village Malpura was taken over by respondent No.2-Land Acquisition Collector vide Rapat Roznamcha No.499 dated 10.05.2013; the drawing of such Rapat-Roznamcha has been held to be a valid proof of taking possession of the acquired land upon passing of the award and the same stands vest in the State thereafter in terms of Section 16 of the 1894 Act. Reliance in this regard can be laid to the decision rendered by the Hon’ble Supreme Court in

case of *“Indore Development Authority vs. Manoharlal and others, reported as 2020 AIR (SC), 1496.*

Moreover, a careful perusal of rapat dated 12.02.2019 shows that vide this document, the possession of land in question was in fact handed over by the office of Land Acquisition Collector to the HSIIDC and the same never related to the taking over of possession by respondent No.2-LAC from the landowner-respondent No.1 and for this reason only, no notice was shown to have been served either to the landowner-respondent No.1 or the Chowkidar of the village Malpura or even the Lambardar of the village, before carrying out possession proceedings. Thus, the document-rapat dated 12.02.2019, rather than helping the petitioner, goes in favour of respondent No.1-landowner to establish that respondent No.2-LAC was already in possession of the land owned by respondent No.1-landowner.

11. Accordingly, in view of the detailed discussion made hereinabove, the symbolic possession of the land in question having been admittedly taken over by respondent No.2 from the landowner-respondent No.1 vide rapat No.499 dated 10.05.2013, the Reference Court did not commit any error of fact or law while awarding statutory interest in favour of respondent No.1-landowner w.e.f. 10.05.2013 to 20.09.2017, as contemplated under Section 34 of the 1894 Act. Resultantly, finding no illegality or perversity in the impugned order dated 30.11.2022, the present revision petition is, thus, dismissed.

12. All pending applications, if any, also stand disposed of.

22.12.2023
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(HARKESH MANUJA)
JUDGE

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