

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

Reserved on:- **29.09.2023**

Date of Pronouncement:- **31.10.2023**

CWP-7225-2023 (O&M)

Amit @ Amit Bhadana

...Petitioner

vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanjay Kaushal, Senior Advocate with
Ms. Ojaswini Gagneja, Advocate
for the petitioner.

Mr. Abhinash Jain, DAG, Haryana
for respondents No.1 to 3.

Mr. Pritam Singh Saini, Advocate,
for respondent No.4.

HARKESH MANUJA, J.

By way of present writ petition, prayer has been made for directing respondent No.3 to decide the application dated 24.04.2016 (P-6) preferred by the petitioner for correction of Statement/Form No.19 in LAC Case No. 92/2012 in a time-bound manner, or in the alternative, issuance of directions to the Executing Court in LAC Execution Petition No.161 of 2021, to decide the application dated 17.12.2021 filed along with it by the petitioner seeking correction of Statement/Form No.19 on account of said Form No.19 having been erroneously prepared by respondent No 3.

FACTUAL ASPECT

2. Briefly stated, facts of the case are that land of the petitioner situated in Village Bhupani, Tehsil and District Faridabad was

acquired for public purpose, namely, development and utilization of land for Master Plan Roads in Sectors 75 to 89, Faridabad. Notification under Section 4 of Land Acquisition Act, 1894 (hereinafter referred as '1894 Act') was issued on 14.08.2008, while notification under Section 6 was issued on 30.08.2008. Award No.12 pertaining to this acquisition was announced by respondent No 3 on 27.08.2010. Reference petition moved by the petitioner under Section 18/30 of the 1894 Act bearing LAC No. 92 of 2012 was decided by the Reference Court, Faridabad vide its Award dated 04.11.2015. Thereafter, the issue pertaining to further enhancement of compensation in the present case went up to the Hon'ble Apex Court and the same was finalized vide judgment dated 14.07.2021 in Civil Appeal No.2903 of 2021 titled as **Banwari Lal Vs State of Haryana, wherein the SLP filed by the petitioner bearing SLP (C) No. 3554/2020 in RFA No.2658/2018 was also decided.**

3. As specified in the present petition, land owned by the petitioner in Village Bhupani which formed part of present acquisition proceedings, falls in 3 parcels as detailed below: -

- 1) Land comprised in Khewat No. 577/724, Rect. No. 90, Killa No. 14/2(5-0), 15/1(4-0), 17/1(1-0), measuring 10 Kanal 0 Marla.
- 2) Land comprised in Khewat No. 609/756, Rect No. 90, Killa no. 16/2(2-10), measuring 2 Kanal-10 Marla; and
- 3) Land comprised in Rect. No. 90, Killa No. 17/2(4-0), 24/2(7-16), 25/1(2-10), Rect. No. 91, Killa No. 4/1(3-13), 4/3(0-14) total measuring 18 Kanal and 13 Marla.

4. After passing of the Reference Court award dated 04.11.2015, petitioner found that parcel of land measuring 18 Kanal 13

Marla owned by him, did not find specific mention in the reference petition filed under Section 18 of the 1894 Act and the same was not even mentioned by the Land Acquisition Collector (for short 'LAC') while making reference to the Court under Section 19 thereof, while the Statement/Form No.19 was forwarded by him. Being aggrieved, that Form No.19 was not having the details of whole of the land owned by the petitioner, he immediately submitted an application dated 24.04.2016 before the LAC, yet no corrective action was taken in pursuance thereof.

5. While aforementioned application dated 24.04.2016 was pending and judgment dated 14.07.2021 was passed by the Hon'ble Supreme Court, petitioner preferred an Execution Petition i.e. LAC Execution No. 161 of 2021 on 17.12.2021 along with a similar application before the Executing Court for issuance of directions to the Respondents-Judgment Debtors to make the necessary corrections in Form No. 19 in the reference petition, so as to include the land parcel measuring 18 Kanal 13 Marla, but the same is also pending adjudication before the Executing Court. In short, grievance is about the inordinate delay in adjudication upon the aforementioned application.

6. On the other hand, learned counsel for respondent No.3, at the outset, submits that as specified in the written statement, the application submitted by the petitioner on 24.04.2016 has been referred to the Reference Court and in that case, this petition has become infructuous as prayer made therein has been substantially fulfilled.

SUBMISSIONS

7. Opposing the course adopted by respondent No. 3, learned Counsel for the petitioner contends that LAC having kept the application pending for so long was expected to decide the same in accordance with law; rather than sending it to the Reference Court. He further submits that no doubt, 18 Kanal 13 Marla of land owned by the petitioner was left out of the reference petition on account of an inadvertent mistake, however, statutorily, in view of Section 19 of 1894 Act, it was obligatory on the part of respondent No.3 to verify the necessary information and send the correct one to the Reference Court. In support of his contention, learned Senior counsel places reliance upon the judgment passed in the case of “**Ram Kumar and others vs Union of India and others**”, reported as 1991(2)SCC 247, wherein it was held that:

“Under Section 18 of the Act the only requirement for the person interested who had not accepted the award was to move a written application to the Collector requiring that the matter be referred for the determination of the Court. One of the grounds for the accepting the award was the amount of compensation. Once such application was moved it was the duty of the Collector to make a reference to the Court. Under Section 19 of the Act while making the reference the Collector was required to state for the information of the Court the particulars as mentioned in clauses (a) to (d) of Sub-Section (1) of Section 19 of the Act. Thus, it was the duty of the Collector to mention not only the situation and extent of land but even particulars of any trees, buildings or standing crops thereon. The agriculturist whose land is acquired may not be fully conversant with the khasra No. or area as entered in the

Revenue records and the Union of India or the State acquiring such land should not be allowed to take any advantage of such ignorance of the agriculturists. Once an application is moved for making a reference under Section 18 of the Act it becomes the duty of the Collector to send full information to the Court regarding the entire land acquired and it is thereafter the duty of the Court to decide the matter in accordance with law.”

7.1 Learned Senior Counsel also points out that if the matter is forwarded to the Reference Court at this stage, it would cause unnecessary delay. He further submits that in another identical matter before the Additional District Judge, Faridabad, in LAC Execution Petition No. 544 dated 05.09.2013 in case titled as “**Rajbir and Ors Vs. State of Haryana and Anr.**”, the Court vide order dated 23.04.2015 was pleased to issue directions to the LAC to file a revised Form No.19 and thus, he prays that similar course be adopted in the case in hand as well.

RIVAL SUBMISSIONS

8. On the other hand, it is submitted by the learned State Counsel that in view of the primary prayer made by the petitioner having already been fulfilled, the application dated 24.04.2016 having been forwarded to the Reference Court, there was no reason for continuing with the present petition. He further submits that when petitioner himself gave description of his land for which he wanted reference to be made to the District Judge under Section 18 of the Act, no fault can be attributed to respondent No.3 while forwarding the same to Reference Court. In support of his contention, he placed

reliance upon a judgment of this Court in “**Sadhu Ram and others vs. State of Haryana**”, reported as 2010(2) PLR 445.

DISCUSSION REGARDING FORM 19

9. I have heard the learned counsel for parties and gone through the paper-book as well as the law cited at the Bar. I find substance in the arguments raised by the learned Senior counsel for the petitioner. As per Section 19 of the 1894 Act, on receiving an application from a landowner that he is not satisfied with the amount of compensation, LAC has been fastened with the statutory responsibility to state all necessary particulars as contemplated under Sections 19 (1) (a) to 19 (1) (d) (generally referred as Form 19), including extent of the land and send it to the Reference Court in writing for its information. For reference, Section 19 of the 1894 Act is reproduced hereunder: -

- “19. Collector’s statement to the Court. - (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand;**
- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;**
 - (b) the names of the persons whom he has reasons to think interested in such land;**
 - (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11;**
 - [(cc) the amount paid or deposited under sub-section (3A) of section 17; and]**
 - (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.”**

10. A bare perusal of the above provision reveals that the information shall be stated by the Collector and the explicit usage of the word “in writing under his hand”, makes it obligatory for “LAC” to own the information regarding its veracity otherwise usage of the term “in writing under his hand” becomes redundant. On a written request being made by the landowner who has not accepted the award, the Collector has been entrusted with the responsibility to prepare the details, from the acquisition records, in accordance with Section 19 of 1894 Act and then make reference to the court accordingly. In case, on account of an inadvertent mistake, some incorrect or inadequate information has been provided in the reference petition, landowner cannot be bound with that and reference has to be made and entertained only for the land legally owned by him and in terms of information provided by the LAC to the Reference Court, based on the revenue documents and the record of acquisition proceedings. If seen from another aspect, if a shrewd minded landowner specifies in the reference petition more land than he owns, he cannot be allowed to receive the enhanced compensation qua the land which is not owned by him and in view of the mandatory nature of Section 19, responsibility for providing the correct information to the Reference Court, in a relation to such application, lies with the Collector only.

11. Moreover, Section 18 of the 1894 Act which enables any person interested to question the Award nowhere requires mention of details or extent of land in the written application to the LAC while assailing the Award. Section 18 of the 1894 Act is reproduced hereunder for reference: -

“SECTION 18:

- (1) *Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.*
- (2) *The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award; (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”*

A perusal of the provision reproduced above shows that following are the matters which could be referred by the Collector for determination to the Reference Court: -

- i) objection to the measurement of the land;
- ii) Amount of compensation;
- iii) The person to whom compensation is payable;
- iv) The apportionment of compensation among the persons interested.

Thus, reading of the above provision makes it clear that Section 18 nowhere contemplates adjudication qua the extent of land under acquisition besides its measurement and thus, nowhere makes it mandatory for the person interested to mention the minute details in

the objection/ written application. Rather on the other hand, Section 19 of the 1894 Act casts a statutory obligation upon the Collector to provide information to the Court about the extent of land along with details of notices served upon the person interested along with copies thereof; which duly contain the details of the land acquired, as well.

12. The above stated reasoning also finds support from **Ram Kumar's** case (supra), wherein Hon'ble Apex Court after taking into consideration the mandatory nature of Section 19 of the 1894 Act, held that while making the reference, Collector was required to state for the information of the Court the particulars as mentioned in clauses (a) to (d) of Sub-Section (1) of Section 19 of the Act and thus it was the duty of the Collector to mention not only the situation and "extent of land" but even particulars of any trees, buildings or standing crops thereon. Judgment in **Ram Kumar's** case (supra) has been followed by the Hon'ble Apex Court in "**Viswanatha Pillai Vs. Special Tehsildar for Land Acquisition No. IV**", reported as AIR 1991 Supreme Court 1966, wherein it was held that it is the duty of the Collector to send full information of the survey numbers under acquisition to the Court and make reference under Section 18 of the 1894 Act and failure thereof is illegal.

Judgment in **Ram Kumar's** case (supra) has been followed by different benches of this Court as well on multiple occasions and specifically in "**Himmat v. Gram Panchayat Rozka Meo**", reported as 2016(1) PLR 366 & "**State of Punjab & Another Vs. Dilbhajan Singh**", reported as 2009(4) PLR 252; this has been followed for the purpose of correction of clerical mistakes. In this case, while specifying

the land details and khasra numbers, which were incorrectly given in the reference petition being inconsistent with the land acquired, as compared to the details mentioned in the Award passed by the Collector, corrections were allowed accordingly.

13. The judgment in **Sadhu Ram's case (supra)** relied upon by learned State Counsel does not have any bearing to the facts of the present case as in that case landowner has been casual in following the remedies available to him. This Court was specifically bothered by the fact that Additional District Judge decided the Reference Petition under Section 18 of the 1894 Act vide award dated 17.5.1993; whereas the execution petition wherein the impugned order came to be passed, was instituted on 12.11.2005 i.e. 12½ years after passing of the Award by the Reference Court, while matter regarding determination of compensation had come to rest after being disposed of by the High Court as well as the Hon'ble Supreme Court, much earlier. In the present case, there has not been much delay; as Reference Court award was passed on 04.11.2015; application for correction of Form 19 before LAC was filed by the petitioner on 24.04.2016 i.e. much before the matter was finally disposed of by the higher Courts. Therefore, ratio of **Sadhu Ram's case (supra)** cannot be made applicable to the present case. Contrarily, in the facts and circumstances of the present case, it can safely be observed that respondent No.3 not only made a mistake while sending unverified and incorrect Form 19 to Reference Court but also expanded the scope of its error by inaction on its part having not taken any corrective measure on the representation subsequently submitted by the petitioner.

**ANALYSIS REGARDING RELIEF SOUGHT, NOT
SPECIFIED IN PRAYER CLAUSE**

14. At this stage, another contention raised by the learned counsel for respondent Nos.3 and 4 requires consideration that in view of the written statement, respondent No. 3 has already forwarded the application dated 24.04.2016 to Reference Court and in that eventuality, prayer made by the petitioner in the present case already stands fulfilled and no further action is required to be taken. Objecting to the prayer made during arguments by the learned Senior counsel representing the petitioner that respondent No 3 be directed to submit the amended/corrected Form 19 before the Executing Court, learned State Counsel contends that no such prayer has been made in the writ petition.

15. In my considered opinion, referring the matter to the Reference Court, at this stage when the land was acquired in the year 2008 and the award was passed in 2010, would lead to subjugating of substantial rights of petitioner/landowner under procedural niceties that too in a circumstance when his land was compulsorily acquired. In that eventuality, the next question which arises, whether this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, can mould the relief in the facts and circumstances of the present case and grant a relief which has not been prayed for in the writ petition.

16. It is no more *res integra* that High Court while exercising its writ jurisdiction under Article 226 of the Constitution of India can mould the relief in the given facts and circumstances not only on the ground

of equitable considerations, but also to ensure that substantial justice is rendered to the parties.

16.1 In "**Dwarkanath Vs. ITO**", reported as 1965(3) SCR 536, Hon'ble Apex Court while comparing the prerogative writ jurisdiction of England with the Writ jurisdiction of High Court in India under Article 226, observed that our Constitution designedly used wide language in Article 226 to enable the Courts to 'reach justice wherever found necessary'. Relevant para in this regard is reproduced below:

*"4. ***This article is couched in comprehensive phraseology and it ex facie confers a wide power on the High Court to reach injustice wherever it is found. The Constitution designedly used a wide language in describing the nature of the power, the purpose for which and the person or authority against whom it can be exercised. It can issue writs in the nature of prerogative writs as understood in England; but the scope of those writs also is widened by the use of the expression "nature", for the said expression does not equate the writs that can be issued in India with those in England, but only draws an analogy from them. That apart, High Courts can also issue directions orders or writs other than the prerogative writs. It enables the High Courts to mould the reliefs to meet the peculiar and complicated requirements of this country. Any attempt to equate the scope of the power of the High Court under Article 226 of the Constitution with that of the English Courts to issue prerogative writs is to introduce the unnecessary procedural restrictions grown over the years in a comparatively small country like England with a unitary form of Government to a vast country like India functioning under a federal structure. Such a construction defeats the purpose of the article itself. To say this is not to say that the High Courts can function arbitrarily under this Article. Some limitations*

are implicit in the article and others may be evolved to direct the article thorough defined channels. This interpretation has been accepted by this Court in Irani v. State of Madras, 1962-(2) SCR 169 .”

16.2 Similarly, Hon'ble Apex Court in **"S.K. Ray (Justice) Vs. State of Orissa & Others"**, reported as 2003(4) SCC 21 held that High Courts while exercising its power under Article 226 always have the power to mould the relief and grant the same. Relevant para in this regard is reproduced below:

“11. The learned counsel for the respondents further submitted that the appellant had not presented his case or claimed compensation for loss of future employment but has claimed only the loss for the present tenure and, therefore, we should not grant any relief to him. A writ petition, which is filed under Article 226 of the Constitution, sets out the facts and the claims arising thereto. May be in a given case, the reliefs set forth may not clearly set out the reliefs arising out of the facts and circumstances of the case. However, the Courts always have the power to mould the reliefs and grant the same.”

16.3 Hon'ble Apex Court in **"AGM/Human Resource BHEL Ltd. Vs. Suresh Ramkrishna Burde"**, reported as 2007(5) SCC 336 has held that it is always open to a Court to mould the relief, which may appear to be just and proper in the facts and circumstances of the case and sometimes equitable considerations also come into play while granting a relief.

16.4 Even recently, a Division Bench of Kerala High Court in case titled as **“Smitha MG v State of Kerala”** bearing case WA No.174 of 2021 observed that a writ Court is not refrained from

granting relief, to which party is entitled merely because that specific relief is not sought. Relevant para of the same is reproduced below:

“15. As noted, the reason stated by the learned Single Judge for declining relief to the petitioner is that she has not challenged Ext.R1 communication issued by the Commission to the fourth respondent. Even though there was no specific relief sought for in the writ petition in that regard, the writ petition was essentially one challenging the said decision and merely for the reason that a specific relief has not been sought in the writ petition, it is not an impediment for the Court exercising power under Article 226 of the Constitution to grant a relief which a party is entitled to.”

16.5 In light of the above discussion, it can be safely said that there is no absolute bar on the powers of High Courts, while exercising its writ jurisdiction under Article 226 to confine the relief only to the prayers made in the petition and for appropriate reasons, a suitable relief which has not been prayed for, may be granted, Moreover, change in circumstances on account of subsequent events could definitely be one of the criteria, there might be other considerations as well like:

- if equity demands so;
- relief being granted would save the parties from unnecessary litigation;
- to ensure complete justice between the parties;
- to bring the entire dispute at rest

The above stated list are just few scenarios and not an exhaustive list as considering the vast number of circumstances, it is impossible to enlist them.

17. If we take into consideration the facts of present case, the primary prayer made by the petitioner has already been met as the application / representation dated 24.04.2016 has been considered by respondent No.3 and it has been referred to the Reference Court for consideration. However, it is incomprehensible that when ownership of the petitioner regarding the demised land has not been disputed even in the written statement filed before this Court in the present writ petition, why the petitioner has to be burdened with the unnecessary procedural encumbrances, when respondent No. 3 itself is responsible for the present situation and circumstances. Additionally, though there is no specific prayer as sought for, however, it can also not be ignored that a generic prayer in terms of "Any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case" does find mention in the prayer clause.

CONCLUSION

18. Therefore, if petitioner is found to be the owner after verification from records in relation to 18 Kanal 13 Marla of land as specified by him in the present petition, which failed to find mention in Form 19 before the Reference Court but was acquired by the State vide award dated 27.08.2010, it seems appropriate that respondent No.3 shall file amended Form 19 before the Executing Court for its consideration. Case of the petitioner is also supported by the fact that in similar circumstances in another case, the Executing Court has called for amended Form 19 from LAC and proceeded further. There is no reason for not adopting the similar procedure in the case of the

present petitioner as well. Though, from the reference letter it is apparent that respondent No.3 intends to oppose the same, but nothing has been brought on record to show that the State has challenged the order passed by the Executing Court in that case.

19. In view of the discussion made above, present writ petition is allowed with a direction that respondent No.3 shall submit the amended/ corrected Form 19, in relation to the land acquired from the petitioner, before the Executing Court after verification from the revenue records which shall consider the same and proceed further in accordance with law.

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

October 31, 2023
sanjay

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes