

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

**Civil Revision No.2326 of 2023 (O&M)
Date of Decision: 26.04.2023**

Pardeep Kumar @ Pradeep Kumar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sandeep Sharma, Advocate for the petitioner.

Mr. R.K.S.Brar, Addl. A.G., Haryana for the respondents.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Article 227 of the Constitution for setting aside the impugned order dated 11.04.2023 (P-1), whereby learned Executing Court has directed that “the amount of compensation be released to the award holder, on furnishing of adequate surety equivalent to the amount of compensation”.

(2) Facts are not in dispute.

(3) It transpires that Government of Haryana issued Notification dated 27.11.2003, under Section 4 of the Act, for acquisition of total land, measuring 85.68 Acres for public purpose i.e. development and utilization of residential, commercial and institutional Sector 48, Gurugram, followed by declaration dated 24.11.2004 under Section 6 thereof.

The land of petitioner was also acquired vide aforesaid Notification and the Land Acquisition Collector (*for short 'Collector'*) awarded compensation @ ₹ 15 Lakh per acre vide award No.20 dated 22.11.2006.

(4) Aggrieved against the above award, appellant invoked reference under Section 18 of the Act and learned Reference Court further enhanced the compensation @ ₹ 50.37 Lakh per acre along with other statutory benefits.

(5) Dis-satisfied with the above award of learned Reference Court, the State of Haryana filed RFA No.4704 of 2017, titled as “**State of Haryana Versus Pradeep Kumar**”, wherein, initially, interim stay was granted on 01.11.2017; but ultimately, the stay application was rejected vide order dated 01.03.2018 in the following manner:-

“Civil Misc. Nos.11612-CI-2017

No ground is made out for grant of stay on account of the fact that the Reference Court had relied upon award Ex.PA and counsel for the State is not able to bring to the notice of this Court that the same has been set aside.

RFA No.4704 of 2017

Admitted.

To be heard along with RFA No.1360 of 2017.”

It is not in dispute that RFA is lying admitted before this Court; but there is no interim stay operating against the release of compensation.

(6) Despite above factual position, the amount of enhanced compensation was not released in favour of the petitioner; hence, he filed CWP No.20384 of 2021 seeking a mandamus to that effect. The Division Bench of this Court, while passing order dated 14.02.2022, issued certain general directions for release of compensation in a staggered manner, and which read as under:-

“Learned counsel for the State has further informed that pursuant to the order dated 02.06.2017 (Annexure R-1) all the

payments were released in time. In the present case as well, the Chief Administrator has given the following proposed plan in tabular form which is as under:-

Category	Proposed Date of compliance
Original Award Amount (Amount of Rs.16,19,36,53,651/- already released will be deposited in reference court within 3 weeks) (Amount of Rs.23,02,16,37,136/- will be released/ deposited in reference court in next 4 weeks)	15th April 2022
Enhanced compensation as per orders of Hon'ble SC including interest payments Approximately 3500 crores will be paid by 30th June 2022 and the balance will be cleared by 15th August 2022	15th August 2022
Enhanced compensation as per orders of Hon'ble High Court and ADJ Court which have attained finality	15th October 2022
Enhanced Compensation where the Special Leave Petitions or Regular First Appeals are pending before the Hon'ble Supreme Court or before this Hon'ble Court respectively and applications for interim stay has been decided.	31st December 2022

Further, the details of pending executions have also been given in para 14 of the above said affidavit which is reproduced as under:-

Zone	Name of Urban Estates	Tentative Number of executions	Tentative Number of cases in which adverse orders are passed such as orders of civil imprisonment, warrants, attachments, personal appearance, auction, sale process etc.
Panchkula	Panchkula, Ambala, Karnal, Kaithal, Kurukshetra, Jagadhri	815 657 165 93 165 171	1 25 22 14 7 5
Rohtak	Rohtak, Panipat, Sonapat, Jhajjar	268 54 310 275	- 11 110 -
Hisar	Hisar, Sirsa, Jind, Bhiwani, Fatehabad	164 126 96 13 17	3 10
Faridabad	Faridabad, Palwal, Nuh	317 64 179	60 4 124
Gurugram	Gurugram, Narnaul, Rewari	1250 10 552	350 - 90

Keeping in view of above detailed proposed plan and the interest of the land owners, a direction is being given in this case that all the executing courts in the State of Haryana are restrained from taking any coercive steps as the respondents have carved out plan for depositing the compensation amount and the reference courts will accept the compensation as per the above said proposed plan.

Learned counsel for respondent-HSVP further informs that due publication will be done with respect to proposed plan of depositing compensation in the entire State of Haryana so that land owners can be awared with respect to deposit of compensation as per the schedule stated above.

A direction is being given to the respondents to comply and make the payment in accordance with the above said proposed plan/priority list.”

(7) Aggrieved against the above directions, the petitioner filed SLP (C) No.4218 of 2022 and the Hon’ble Supreme Court, vide order dated 14.03.2022, stayed the order of Division Bench (*supra*) qua petitioner in the following manner:-

“As noticed hereinabove, in the impugned order dated 14.02.2022, the High Court has essentially based its consideration on the so-called plan for release of amount of compensation, as proposed by the Chief Administrator, HSVP; and has issued general directions restraining all the Executing Courts in the State of Haryana from taking coercive steps.

It is submitted that the High Court has issued such directions without taking note of the hardships faced by the land owners whose land had been acquired and who were being deprived of the awarded amount of compensation. It is also submitted that the High Court has given no reason whatsoever for accepting the proposed plan, which is essentially of delayed and staggered payment schedules.

This matter too requires consideration.

Issue notice to the respondents, returnable in two weeks.

In the meanwhile and until further orders, operation and effect of the impugned order dated 14.02.2022 in CWP No. 20384 of 2021 shall remain stayed qua the petitioner; and the petitioner shall be free to adopt necessary proceedings for recovery of the amount of compensation, as permissible in law.

Having regard to the circumstances, we would also request the High Court to keep further proceedings in CWP No. 20384 of 2021 in abeyance, until further orders of this Court.”

It is acknowledged by both sides that above matter is still pending for consideration before the Hon’ble Supreme Court.

(8) In spite of the above strenuous efforts made by the petitioner, the enhanced compensation has not been released so far; rather learned Executing Court has put an interdict before releasing the compensation.

(9) Also noteworthy that there was no objection raised by the respondents against releasing of compensation in favour of the petitioner. Even before this Court also, learned State Counsel is not able to justify the course adopted by learned Executing Court while asking the petitioner to furnish adequate surety before releasing the amount of compensation.

(10) In view of the above, this Court is of the considered opinion that learned Executing Court while insisting the petitioner for “furnishing adequate surety equivalent to the amount of compensation” has virtually gone beyond the award (deemed decree); hence, such a course is not legally permissible being without jurisdiction.

As a result thereof, there is no option except to allow the present petition.

Consequently, present petition is allowed; impugned order dated 11.04.2023 (P-1) regarding “furnishing of adequate surety equivalent to the amount of compensation” is hereby set aside and quashed. Learned Executing

Court is directed to proceed further in the matter expeditiously and release the amount of compensation due in favour of the petitioner as per law; but without insisting any surety.

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

April 26th, 2023
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No