

[1]

Civil Revision No. 470 of 2023 (O&M)

Neutral Citation No. 2023:PHHC:143086

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

Civil Revision No. 470 of 2023 (O&M)

Date of Decision: 08.11.2023

Om Kar Chadha @ Omkar Chadha

..... Petitioner

Versus

The State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Adarsh Jain, Advocate
for the petitioner.

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana
for respondent Nos. 1 & 2.

Service *qua* respondent No. 3-Delhi Metro Rail Corporation,
Faridabad, stands dispensed with vide order dated 23.01.2023.

HARKESH MANUJA, J.

The petitioner-landowner, by filing the present revision petition, seeks to set aside the order dated 13.08.2019 passed by learned Additional District Judge, Faridabad (for short “Reference Court”), whereby the reference petition filed at his instance, having invoked Section 18 of the Land Acquisition Act, 1894 (hereinafter to be referred as “the 1894 Act”), was rejected on the ground that the same was required to be filed under Section 64 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter to be referred as “the New Act, 2013”).

[2] In the present case, land owned by the petitioner, situated in Village Mewla Maharajpur, H.B. No. 4, Tehsil & District Faridabad, was acquired for the public purpose of construction of elevated corridor from Badarpur Border to YMCA Chowk, Faridabad. Notification under Sections 4 & 6 of the Act was issued on 12.02.2013 & 09.09.2013 respectively, whereas the Award No. 3 in exercise of powers under Section 11 thereof was passed on 08.05.2015.

[3] Being dissatisfied, the petitioner filed reference under Section 18 of the 1894 Act, which was forwarded by the Land Acquisition Collector, Faridabad (for short “the Collector”) to the Reference Court. The issues were framed by the Reference Court, followed by recording of evidence of both the sides.

[4] Finally, vide order dated 13.08.2019, the Reference Court rejected the reference petition being not maintainable by making following observations in para Nos. 20 to 22:-

“ 20. In such a situation, it was incumbent upon the petitioner to file the reference under section 64 of the New Act, 2013 against the impugned award. But the petitioner of the present petition filed the objections under section 18 of Old Act, 1894. Under Old Act, 1894 the reference court while determining the compensation is duty bound to consider the factors mentioned under section 23. Under new enactment the court/authority is duty bound to determine the market value of the land and consider other factors as mentioned under section 69 of the New Act, 2013. The provisions of Old Act, 1894 and New Act, 2013 in respect of determination of the value of the land materially different from each other. Pleadings under

section 64 of the new enactment are required to be made in consonance with its provisions and not in accordance with the provisions of Old Act, 1894. Therefore, this court/authority is of the opinion that the objections under section 18 of the Old Act, 1894 filed by the petitioner and reference made to this court by Land Acquisition Collector are not maintainable.

- 21. As a result of above discussion, this court is of the opinion that objection filed by the petitioner against the impugned award dated 8.5.2015 is not maintainable. Land Acquisition Collector made reference without looking into the provisions of new Act. Therefore, the reference petition can not be answered in the absence of proper pleadings. However, the petitioner is at liberty to file the objections under the New Act, 2013, if so advised, as per law. Accordingly, the reference petition stands dismissed and answered leaving the parties to bear their own costs.*
- 22. Before parting with this award this court with heavy heart is of the view that the petitioner acted ignorantly and it appears that it was not having knowledge of the latest enactment. It has not been properly advised. Even Land Acquisition Collector acted in a mechanical manner and forwarded the reference petition to this court under section 18 of the Old Act, 1894. It has consumed the valuable time, money, energy of the petitioner as well as of all the concerned quarters of the State. Memo of cost be prepared accordingly. Reference file be consigned to records. ”*

[5] I have heard learned counsel for the parties and gone through the paper book and find substance in the present revision petition.

[6] In the present case, the acquisition proceedings though initiated under the 1894 Act, culminated with the passing of the award dated 08.05.2015 under the New Act, 2013.

[7] Applying the ratio of ***decision dated 19.09.2019*** passed in ***CR No. 5521 of 2019*** by the Coordinate Bench, in case titled “***M/s Super Seals India Limited Versus The State of Haryana and others***”, where under similar circumstances, in exercise of its supervisory revisional jurisdiction under Article 227 of the Constitution of India, this Court while setting aside the order passed by the Reference Court, directed the conversion of reference filed under Section 18 of the 1894 Act, into a reference under Section 64 of the New Act, 2013 with a direction to the Reference Court to proceed in accordance with the New Act, 2013 from the stage of recording of evidence. The relevant portion from the decision dated 19.09.2019 passed in ***M/s Super Seals case (supra)*** is reproduced as under:-

“ This Court is of the view that even if, procedures are different, in the present case, petitioner/appellant has led evidence for enhancement of the compensation and after leading such evidence, the Reference court is required to follow the procedure under the relevant provisions of the New Act, 2013.

Hence, in order to save time of the Court as well as the litigant, this Court suo motu proceeds to exercise powers under the revisional jurisdiction. Resultantly, the impugned order(s) dated 25.07.2019 are set aside and the reference under Section 18 of the Old Act of 1894 for enhancement of the compensation of the acquired land is being converted into the reference under Section 64 of the New Act of 2013. A direction is now being given to the Reference Court to proceed in accordance with the New Act of 2013 from the stage of recording the evidence. However, liberty is granted to the petitioner(s) to make any application, in

accordance with law, for recalling of any other order, which has/have been passed with respect to the acquired land of Village Anangpur, H.B. No.2, Tehsil & District Faridabad.”

[8] In view of the above, while exercising supervisory revisional jurisdiction, the impugned order dated 13.08.2019 passed by the Reference Court is hereby set aside with a direction to treat the reference filed under Section 18 of the 1894 Act, to be a reference under Section 64 of the New Act of 2013 with further direction to the learned District Judge at Faridabad, to assign the same to the competent Court as per the notification issued by the State of Haryana under the relevant provisions of the 2013 Act, who shall decide it in accordance with the provisions of New Act, 2013 as regards the determination of compensation and from the stage of recording of evidence.

[9] **Disposed off** accordingly.

[10] Pending miscellaneous application(s), if any, shall also stand disposed off.

November 08, 2023

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(HARKESH MANUJA)

JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>