

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

CWP-13845-2018

Decided on:-28.08.2023

Agarsen and others

....Petitioners..

vs.

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kul Bhushan Sharma, Advocate,
for the petitioners.

Mr. RKS Brar, Additional Advocate General, Haryana,
for respondents No.1 and 2-State.

Mr. P.S. Saini, Advocate,
for respondent No.3-HSIIDC.

Mr. Aditya Jain, Advocate,
Mr. Rahul Vohra, Advocate and
Mr. Shivjot S. Modgil, Advocate,
for respondent No.4-Gram Panchayat

HARKESH MANUJA J. (Oral)

1. By way of present writ petition, challenge has been laid to an order dated 15.11.2017 passed by respondent No.2, whereby, prayer made on behalf of the petitioners, seeking reference under Section 30 of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act"), has been rejected with the following observations:-

“ In the aforesaid matter, the Reference petition under Section 30 filed by you regarding the Land in village Chandawli, Tehsil Ballabgarh, the reference under Section 30 of the same land has been decided by Additional District Judge Sh. A.K. Sharda on dated 24.02.2014; in accordance with the said order, the compensation amount has been paid to Gram Panchayat Chandawli. No compensation amount is lying in this office

pertaining to the aforesaid land in this case. Therefore, the petition filed by you under Section 30 is consigned.”

2. Briefly stating, certain land situated within the revenue estate of Village Chandawli, District Faridabad, came to be acquired for the purpose of development and establishment of Industrial Mini Township, regarding which, award No.5 dated 22.07.2008 was passed. The petitioners, claiming themselves to be proprietors/bashindgan deh, invoked Section 30 of the 1894 Act, by submitting reference before respondent No.2. The prayer made in the said petition was declined by respondent No.2, vide order dated 15.11.2017, reproduced hereinabove.

3. A perusal of order dated 15.11.2017, shows that the prayer for reference under Section 30 of the 1894 Act, was declined by respondent No.2 on the ground that earlier reference under Section 30 of 1894 Act pertaining to the same land was decided by the Reference Court vide its decision dated 24.02.2014, as per which, it was held that the land was owned by Gram-Panchayat, Chandawli and based thereupon, the compensation amount stood paid to the Gram Panchayat.

4. A perusal of judgment dated 24.02.2014, which has been appended along with present writ petition as Annexure P-7 (page 117) shows that only 20 kanals, 10 marlas of land was subject matter of the previous reference, whereas, the dispute in the present case, relates to 434 kanals and 12 marlas of land.

5. On a pointed query, learned State counsel as well as learned counsel representing respondent No.3 have not been able to point out as to whether land, subject matter of the present writ petition also formed part of

the earlier decision dated 24.02.2014 or not. Even, no document has been produced on record to substantiate the said reasoning.

6. In view of the discussion made herein above, the order dated 15.11.2017, is set aside with a request to respondent No.2 to refer the dispute of apportionment to the Reference Court in exercise of powers under Section 30 of the 1894 Act, so that the parties are afforded opportunity to lead evidence and establish their respective title over the land in question for the purposes of establishing their rights over the compensation amount. Let the needful be done within 6 weeks from today. At the same time, it is also clarified that the respondents would be at liberty to raise all pleas before the reference Court, including that of locus standi of the petitioner.

7. Accordingly, the present petition stands disposed of.

28.08.2023

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(HARKESH MANUJA)
JUDGE

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