

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

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**CWP-27100-2015 (O&M).
Date of Decision: 02.03.2023.**

Subhash Chand

.. Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Mandeep Singh Sindhu, for
 Mr. Sanjiv Gupta, Advocate,
 for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana,
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Articles 226/227 of the Constitution of India, 1950, for seeking issuance of a writ in the nature of Mandamus directing the respondents to release the payment qua Tubewell, Kotha, other Pucca construction, Water Khal and Trees along with interest @ 12% per annum.

Briefly summarized the facts of the case are that the petitioner-landlord had approached this Court averring that the Irrigation Department, Government of Haryana, had issued a Notification under Section 4 of the Land Acquisition Act, 1894 on 23.08.2005. The declaration under Section 6 of the Land Acquisition Act, 1894, was published on 13.09.2005 and Award No.4 was thereafter passed by the Land Acquisition Collector-cum-District Revenue Official, Kurukshetra on 13.08.2007 qua the land

measuring 69.53 acres situated in the revenue estate of Village Ramgarh Rohar, which was acquired for public purpose namely 'for construction of BM Hansi Butana Branch Multi Purpose Link Channel RD 91000 to 105600'. It is further claimed that the petitioner had raised a Tubewell, Pucca Well, Kotha, Pucca Water Course and 11 Trees of Shisham, Kikkar, Jamun and Guava and 06 Trees of Jaiphal as well as 03 Mango Trees were also standing there on the spot, however, compensation qua the super structure as well as various fruit bearing trees has not been assessed. An application in this regard was submitted to the DRO (Land Acquisition Collector), Kurukshetra on 25.09.2007 itself, however, the same was not taken into consideration and the Award did not compensate the petitioner for the same.

Written statement on behalf of the respondent No.1- State of Haryana had been filed wherein the aforesaid facts qua acquisition are acknowledged. It has been submitted that Award No.4 dated 13.08.2007 was passed and the value of the land @ 5.00 lacs per acre with 30% solatium and 12% additional charges were awarded. It is further stated that the petitioner had preferred a reference bearing Land Acquisition (LA) Case No.7 of 2008 before the Additional District Judge, Kurukshetra. The above said LA case was decided along with LA Cases No.01/2008 to 19/2008 vide judgment dated 24.12.2008 wherein bifurcation charges @ Rs.50,000/- per acre as compensation for Tubewell, Kotha and Trees had been awarded by the LAC to the land-owners who proved the existence of the said infrastructure. The petitioner, however, could not prove the existence of Trees, Tubewell and Pucca Well, Kotha during the arguments advanced

before the LAC Court. Consequently, no award was passed in favour of the petitioner herein.

Even though the aforesaid written statement was filed by the respondents way back in January 2018, however, no rejoinder controverting the aforesaid facts has been filed by the petitioner. Consequently, the statement of fact as narrated by the respondents in the reply remains uncontroverted has to be accepted.

I have heard the learned counsel for the respective parties and have gone through the documents available on the record of the present petition.

The short question which arises in the present case is with regard to assessment and award of compensation qua the super structure/tubewell including the standing trees on the land in question. The petitioner claims that such infrastructure/super structure was standing on the land in question which such fact, however, was not taken into consideration by the LAC. It is not in dispute that a reference before the LAC Court had been preferred by the petitioner and that he could not adduce any evidence to establish/prove the existence of above said super structure as well as the fruit bearing trees. The appropriate remedy, in the event the grievance of the petitioner stood not redressed, was to prefer a Regular First Appeal against the Award of the LAC before the High Court. However, instead of raising a challenge to the aforesaid Award as per the procedure known to law, the present writ petition has been filed. The same in my considered opinion is not maintainable. A Writ Court does not sit in re-appreciation of the evidence adduced before the LAC Court and to record a finding of fact which could not be established before the LAC Court.

Finding the present writ petition devoid of any merits and not maintainable, the same is accordingly, dismissed. The petitioner may, if so advised, take recourse to the appropriate remedy as per law.

March 02, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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