

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

CWP-21358-2020

Decided on:-04.10.2023

Dalip Singh

....Petitioner.

VS.

State of Punjab and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Manhas, Advocate and
Ms. Saruti Sandal, Advocate,
for the petitioner.

Ms. Lavanya Paul, DAG, Punjab,
for respondents No.1 to 3.

Mr. D.S. Kahlon, Advocate,
for respondent No.4.

HARKESH MANUJA J. (Oral)

1. By way of present writ petition, prayer has been made for issuance of a writ in the nature of certiorari for setting aside of an order dated 20.11.2020, passed by the Land Acquisition Collector, Shahpurkandi Dam Project, Shahpurkandi Township, whereby, one application moved at the instance of petitioner, seeking reference under Section 30 of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act"), claiming apportionment qua the compensation awarded against the superstructures vide award dated 18.03.2016, has been declined.

2. Briefly stating, certain land jointly owned by the petitioner along with private respondent No.4, situated in Khasra No.355/2, village Thara Jhikla Tikka Doong, Tehsil and District Pathankot Dhar, came to be

acquired vide notifications dated 12.08.2011 and 28.03.2012, issued under Sections 4 and 6, respectively of the 1894 Act, for the public purpose of “Reservoir Area Shahpurkandi Dam Project”.

3. Award pertaining to the land was passed on 26.11.2012, whereas the compensation qua the superstructures was assessed vide award dated 18.03.2016. Thereafter, the petitioner sought reference under Section 30 of the 1894 Act, seeking apportionment of compensation qua the superstructures existing over the joint land. Respondent No.2 vide order dated 20.11.2020, declined the prayer made by the petitioner while recording that the reference under Section 30 cannot be made after the passing of the award under Section 11 of the 1894 Act for superstructures which already stood passed on 18.03.2016.

4. While impugning the aforesaid order, learned counsel for the petitioner submits that the reasoning recorded by respondent No.2 is beyond the intent of the provisions itself and rather defeats its purpose.

5. On the other hand, learned counsel for respondent No.4 submits that the petitioner is not a co-sharer in the land situated in Khasra No.355/2, and thus, he is not entitled for any apportionment of compensation.

6. I have heard learned counsel for the parties and gone through the paper book.

7. Since, the dispute in the present case revolves around Section 30 of the 1894 Act, the same is reproduced hereunder for reference:-

“30. Dispute as to apportionment. - When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable,

the Collector may refer such dispute to the decision of the Court.”

A plain reading of Section 30 of the 1894 Act, makes it clear that in case any dispute arises as regards apportionment of compensation, the Collector has to refer the same for its adjudication to the Reference Court.

8. Moreover, perusal of paper book *prima-facie* shows that as per jamabandi for the year 2011-2012, petitioner is one of the co-sharers in khasra No.355/2. Besides it, the reasoning recorded by respondent No.2 while passing the impugned order to the effect that the application for apportionment under Section 30 of the 1984 Act cannot be forwarded at this stage once the award already stood passed, is wholly against the intent and purposes thereof, as the same can always be invoked post-passing of the award for the purpose of seeking apportionment of compensation, otherwise the provision itself would become redundant and be of no use

9. In view of the discussion made hereinabove, the order dated 20.11.2020 passed by respondent No.2 is hereby set aside with further direction that the dispute regarding apportionment be referred to the Reference Court for its adjudication on merits.

10. It is made clear that any observation made herein may not be construed as an expression of opinion on merits of the controversy.

11. Pending application(s), if any, stand(s) disposed of.

04.10.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No