

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

RFA-1254-2017 (O&M)

Date of Decision: August 31, 2023

**STATE OF HARYANA THROUGH COLLECTOR, KURKSHETRA
AND OTHERS**

..... Appellants

Versus

HUKAM CHAND & ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Shivendra Swaroop, DAG, Haryana.
Mr. Rahul Sharma, Advocate for respondents No.1 and 2.
Mr. Saurabh Bajaj, Advocate for respondents No.3 and 4.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to an award dated 12.12.2016 passed by the Reference Court whereby the reference petition filed at the instance of respondents-landlords was disposed of with a direction to the Land Acquisition Collector to assess the amount of compensation in favour of landowner, in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 2013 Act).

2. Briefly stating, the land owned by the respondents-landowners, situated in village Narkatari, Hadbast No.386 Tehsil Thanesar, District Kurukshetra was acquired vide notification dated 07.01.2010 and 01.09.2010 issued under Section 4 and 6 of Land Acquisition Act, 1894 (hereinafter referred to as 1894 Act). Award under section 11 was announced on 30.09.2011.

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3. Being dissatisfied, respondents-landowners invoked Section 18 which came up for hearing before Reference Court on 12.12.2016. the Reference Court while holding that compensation in support of majority of landholdings has not been deposited prior to coming into force of 2013 Act thus relying upon proviso to Sub-Section 2 to Section 24, ordered that the assessment of compensation was required to be made under the provisions of 2013 Act. The operative part of the award dated 12.12.2016 is reproduced hereunder:-

“24. In view of the discussion on issues No.1 and 2, the reference petition is disposed of with a direction to the petitioners to appear before the Land Acquisition Collector who shall undertake the exercise of revision of compensation in accordance with the provisions of the New Act and pay the differential amount of compensation to the petitioners. The Land acquisition Collector shall decide the petitions within three months from receipt of copy of this award after affording full opportunity to the petitioners to represent their claim.”

4. Aggrieved of the aforementioned award, the present appeal has been filed at the instance of State. Learned State counsel refers to Ex.R-6-R-9 i.e. the notices issued by Land Acquisition Collector, Kurukshetra to the respondents-landowners, informing them about the deposit of amount of compensation in terms of award under Section 11 of 1894 Act along with a request to come forward and receive the same. In addition, learned State counsel also relies upon a decision made by this Court in “**Sehdev Singh and Others Vs. State of Haryana and Others 2021(3) RCR (Civil) 457**” to contend that once the amount of compensation was deposited either with the Land Acquisition Collector or in the Treasury or in the Court with regard to majority of landholdings, the landowners were merely entitled for interest under Section 34 of

1894 Act and the amount of compensation was not required to be reassessed in terms of provisions of 2013 Act by relying upon proviso to Sub-Section 2 to section 24 of 2013 Act.

5. On the other hand, learned counsels representing respondents-landowners submit that in the present case, the entire land under acquisition belongs to respondents and the compensation in respect of majority of landholdings was never released in favour of beneficiaries and thus the direction issued by the Reference Court warranted no interference.

6. I have heard learned counsel for the parties and have gone through the paper-book. I find substance in the submissions made on behalf of the appellants.

7. From the evidence available on record, it is more than clear that amount of compensation in terms of award dated 30.09.2011 passed under Section 11 of 1894 Act was lying deposited with the Land Acquisition Collector and notice in this regard was even issued to the respondents-landowners. Once the amount of award was deposited with the Land Acquisition Collector, the fact as to whether notices in this regard were served upon the respondents-landowners or not would not be fatal and create right with the landowners so as to claim compensation under the provisions of 2013 Act by relying upon proviso to Sub-Section 2 to Section 24 of 2013 Act, At best, the respondents-landowners could at best ask for interest in terms of Section 34 of 1894 Act on the delayed disbursement of compensation in their favour. My aforesaid view is also derived from the observations made by Division

Bench of this Court in case of **Sehdev Singh and Others (supra)**.

Relevant portion thereof is reproduced hereunder:-

“While reading the proviso to section be part of section 24(2) of the Act of 2013, the Hon’ble Supreme Court has clarified that in case, the offer for payment has been made but not deposited, liability to pay amount along with interest subsist and if not deposited for majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the landowners as on the date of notification for land acquisition under section 4 of the Act of 1894. Regarding the deposit, it has been clarified in para 242 of the judgment that for the higher compensation to follow, the money should not have been deposited with the Land Acquisition Collector or in the treasury or in the Court with respect to majority of land holdings, meaning thereby if it was deposited in any of the three modes with respect to majority of holdings, the higher compensation will not follow, but interest under section 34 of the Act of 1894 would be the consequence.”

8. In view of the discussions made hereinabove, the impugned award dated 12.12.2016 passed by the Reference Court-cum-Addl. District Judge, Kurukshetra as regards, direction of assessment of compensation as per provisions of 2013 Act is hereby set aside and the matter is remanded back to the Reference Court for its fresh adjudication as regards determination of amount of market value/compensation as per the provisions of 1894 Act. Considering the fact that acquisition proceedings in the present case commenced in the year 2010, the Reference Court is requested to dispose of the proceedings within a period of one year from today.

31.08.2023
tejwinder

(HARKESH MANUJA)
JUDGE

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

