

CR-5947-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-5947-2023 (O&M)
Decided on : 07.10.2023

Davinder Singh and others

. . . Petitioner(s)

Versus

State of Punjab and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Keshav Pratap Singh, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

CM-18665-CII-2023

Allowed as prayed for.

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1. Present revision petition has been filed by the petitioners, *inter alia* seeking direction to the learned Reference Court, SAS Nagar (Mohali), for deciding the application for appointment of the Local Commissioner.

2. Learned counsel for the petitioners submits that the petitioners are the landowners of the land, which was acquired by respondents (State of Punjab), under the provisions of ‘**the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013**’ (for brevity, ‘the Act’).

He further submits that for the assessment of the amount of compensation of fruit bearing trees over the acquired land, a Committee of three members of the officials of the Horticulture Department, was constituted under the Act., who subsequently, decided the amount of compensation vide its order dated 04.03.2021 (P-8) and 07.01.2022 (P-12).

3. Subsequently, said amount was re-assessed by the Govt. of Punjab/respondents, and concluded that the assessment made by the Committee is incorrect. Decision of the Government was challenged by the petitioners herein, vide CWP No.9090 of 2022, and said writ petition was disposed of by this Court vide order dated 05.05.2022 (P-14), and the petitioners were relegated to get the issue of compensation decided through the reference Court under Section 64 of the Act. Order of the Government, assailed in CWP-9090-2022, was kept in abeyance.

Operative part of the order dated 05.05.2022, passed in the said writ petition, says as under:-

“5. Today, the learned counsel representing the parties are ad idem that since the dispute with regard to the correctness of assessment with respect to the market value of the trees is in dispute, therefore, let the matter be referred to the Authority under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the 2013 Act”).

6. Keeping in view the consensus arrived at, the matter is referred to the Principal Civil Court of the District, namely the District & Sessions Judge, who shall either decide the case himself or assign it to one of the Additional District & Sessions Judges. Both the parties shall be at liberty to file an application for appointment of the Local Commissioner/Expert in order to verify the actual position. The parties, through their learned counsel, are directed to

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appear in the Court of the District & Sessions Judge, S.A.S. Nagar (Mohali), on 18.05.2022. The order dated 21.03.2022, passed by the Additional Chief Secretary, Housing and Urban Development, Punjab, shall be kept in abeyance till the matter is decided by the Reference Court.

7. *With the observations made above, the present writ petition is disposed of.”*

4. Mr. Keshav Pratap Singh, learned counsel for the petitioners while referring to the observation given in paragraph No.6 of the order dated 05.05.2022 (P-14), passed by this Court in CWP-9090-2022, submits that one application was moved in the month of May 2023, for appointment of the Local Commissioner/Expert in order to verify the actual position.

Further, while referring to the zimni orders passed by the Reference Court, learned counsel submits that since the time of filing of the application, no decision is being taken by the learned Reference Court, and same is being adjourned on the request of the respondents i.e. State of Punjab, under the pretext of filing of the reply. For convenience, gist of the zimni orders, detailed in the tabulated form in paragraph No.8 of the revision petition is reproduced hereunder:-

<i>Date</i>	<i>Orders</i>
<i>18.05.2022</i>	<i>Application moved by petitioner for making party and produced High Court Order dated 05.05.2022 in CWP No.9090 of 2022. Due to non receipt of the order from High Court the case was adjourned to 31.05.2022.</i>
<i>31.05.2022</i>	<i>Record not received.</i>
<i>16.07.2022</i>	<i>Record not received.</i>
<i>12.08.2022</i>	<i>Record not received.</i>
<i>02.09.2022</i>	<i>Record not received.</i>

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26.09.2022	<i>Record not received.</i>
17.10.2022	<i>Record not received.</i>
14.11.2022	<i>Record not received.</i>
12.12.2022	<i>Record not received.</i>
16.01.2023	<i>Record not received. Case transferred from the Court of Sh. Harpal Singh, DJ to the Court of Sh. Sandeep Kumar Singla, ADJ.</i>
18.01.2023	<i>Petitioners and Respondent no.6 did not appeared and also the Record not received.</i>
03.02.2023	<i>Petitioners and Respondent no.6 did not appeared and also the Record not received.</i>
17.02.2023	<i>Petitioners and Respondent no.6 did not appeared and also the Record not received.</i>
05.04.2023	<i>Petitioners and Respondent no.6 did not appeared and also the Record not received.</i>
24.05.2023	<i>Notice was issued to the respondent no.6 and application was moved by the petitioner for appointment of local Commissioner.</i>
20.07.2023	<i>Deputy Director appeared on behalf of respondent no.6 requested for adjournment to file reply and fresh notice was issued to Respondent No.1, 2 and 5.</i>
16.08.2023	<i>Reply not filed. Fresh notice was issued to respondent no.2 and 5 on filing of copy of application within period of 7 days. Respondent no.1 proceeded ex-parte.</i>
21.09.2023	<i>Court on leave</i>
11.10.2023	<i>Next date of hearing.</i>

5. I have considered the submissions addressed by learned counsel for the petitioners, and the revision petition along with documents appended with it, as well as the order dated 05.05.2022 (P-14), passed in CWP-9090-2022, and I am of the considered view that the prayer made by the petitioners is limited one i.e. to seek direction for final adjudication of the application, filed by the petitioners/landowners, for seeking appointment of the Local Commissioner.

Therefore, taking into consideration the facts and circumstances

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of the case, present revision petition is disposed of with a direction to the learned Reference Court to decide the application filed by the petitioners/landowners for appointment of the Local Commissioner, at the earliest, preferably, within a period of two months from the date of receiving of copy of this order, in accordance with law.

Needless to observe that the said application needs to be decided by passing a reasoned and speaking order.

6. Accordingly, with the aforementioned observations and the terms recorded hereabove, present revision petition stands **disposed of**.

(SANJAY VASHISTH)
JUDGE

October 07, 2023

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*