

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

RFA-4058-2018 (O&M)

Decided on:-21.11.2023

Hukam Singh and others

....Appellants..

vs.

Haryana State through Collector, Panipat and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Brijender Kaushik, Advocate for
Mr. Bhupender Singh, Advocate,
for the appellants.

Mr. Arun Beniwal, Sr. DAG, Haryana.

Mr. Pritam Singh Saini, Advocate,
for respondent No.3-HSIIDC.

HARKESH MANUJA J. (Oral)

1. By way of present appeal, challenge has been laid to an award dated 17.07.2017 passed by the Reference Court-cum-Additional District Judge, Rohtak, whereby, a petition filed under Section 18 of the Land Acquisition Act, 1894 (herein-after referred to as “1894 Act”), at the instance of appellants-landowners, seeking enhancement of compensation, stands dismissed on the ground of limitation.

2. Briefly stating, certain land owned by the appellants-landowners, falling within the revenue estate of village Kheri Sadh, Tehsil Sampla, District Rohtak, came to be acquired vide notifications dated

04.02.2008 and 25.06.2008, issued under Sections 4 and 6, respectively of

the 1894 Act. The land was acquired for the public purpose i.e. for setting up of the Industrial Model Township, Rohtak. The award under Section 11 of the 1894 Act was announced by Land Acquisition Collector, Rohtak on 23.12.2008 and market value was assessed @ Rs.16,00,000/- per acre.

3. Aggrieved thereof, the appellants-landowners filed reference petition under Section 18 of the 1894 Act on 27.03.2009, which came to be dismissed by the Reference Court vide award dated 17.07.2017, holding it to be barred by limitation. By way of present appeal, the aforesaid award has been impugned.

4. I have heard learned counsels for the parties and gone through the paper book as well as the record of the Reference Court. A perusal thereof shows that the award under Section 11 of the 1894 Act was passed in the present case on 23.12.2008 and as per statement No.19, the compensation was released in favour of the appellants-landowners on 17.02.2009 and this fact was specifically stated in the reference petition as well.

In the entire written statement filed by the respondents, no specific denial was made to the aforesaid specific assertion. Even, while appearing as PW-1, one of the appellants-landowners, namely Raj Kumar again reiterated the same fact of having received the amount of compensation on 05.02.2009 (wrongly mentioned instead of 17.02.2009), yet no counter suggestion was ever put to him in the cross-examination so as to rebut the same. Besides it, the Revenue Official, who appeared as a witness from the side of respondents never even disputed the factum of compensation having been received by the appellants-landowners in the

month of February, 2009.

Further more, the respondents did not produce on record of any notice issued and served upon the appellants-landowners in terms of Section 12(2) of the 1894 Act upon passing the award. In the absence thereof, coupled with the fact that the compensation was released in favour of the appellants-landowners in the month of February 2009, the reference petition filed at their instance on 27.03.2009 could not have been dismissed being barred by limitation, the appellants-landowners not being made aware of the contents of award. In addition, the Reference Court while declining the reference petition being barred by limitation failed to notice any of the aforementioned facts either regarding receipt of compensation by the appellants-landowners in the month of February, 2009 or even non-issuance of notice under Section 12(2) thereupon. Thus, in the present facts, the reference petition filed on 27.03.2009 raising objections against the award dated 23.12.2008, the compensation having been paid to appellants-landowners on 17.02.2009 and in the absence, issuance of notice under Section 12(2) thereupon was required to be treated within limitation.

6. Resultantly, in view of the discussion made herein-above, the present appeal is allowed and the impugned award dated 17.07.2017 passed by the Reference Court, dismissing the reference petition filed at the instance of appellants-landowners being barred by limitation, is hereby set aside and the matter is sent back for its fresh adjudication on merits.

7. Considering the fact that the acquisition in the present case commenced in the year 2008, the Reference Court is requested to dispose of the reference as expeditiously as possible, preferably within a period of one

year from the date of receipt of copy of this order.

8. All pending applications stand disposed of.

21.11.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/ No

(HARKESH MANUJA)

JUDGE