

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

CM-08-CI-2023 in/and RFA-349-2020

Date of Decision: July 04, 2023

MAHENDER @MAHENDER RAM AND ANOTHER..... Appellants

Versus

STATE OF HARYANA AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. M.M. Pandey, Advocate and
Mr. Umesh Pandey, Advocate for applicants/appellants.
Mr. Shivendra Swaroop, DAG Haryana.

HARKESH MANUJA, J. (ORAL)

CM-08-CI-2023

Present is an application praying for disposal of main appeal in terms of order dated 07.09.2022 passed in RFA-4227-2019.

Notice of application was issued to non-applicant/respondent.

Mr. Shivendra Swaroop, DAG Haryana very fairly submits that the case in hand would not be covered by decision dated 07.09.2022 passed in RFA-4227-2019 as the acquisition in the present case was carried out under the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 2013 Act) whereas in the case arising out of the RFA-4227-2019 the acquisition proceedings were carried out under the provisions of Land Acquisition Act, 1894.

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Learned State counsel further submits that the main appeal can still be taken up for final hearing as he has no objection in this regard.

In view thereof, the prayer made in the application is allowed and the main appeal is taken on board today itself.

MAIN APPEAL

1. Challenge in the present appeal is made to an award dated 14.03.2018 passed by the Reference Court in LAC-52-2018 whereby a marginal enhancement towards the amount of compensation/market value was granted to appellants/land owners.

2. Briefly stating, facts of the case are that land owned by the appellants in Village Fatehpuria besides the land pertaining to few other land owners was acquired vide notification dated 28.01.2016 under Section 11 of the 2013 Act followed by a notification dated 16.03.2017 under Section 19 thereof. Award No.2 dated 14.03.2018 was passed under Section 23 ibid. whereby the market value was assessed at Rs.16,23,500/- per acre.

3. Though the acquisition proceedings in the present case were carried out under the provisions of 2013 Act, however, the appellants invoked Section 18 of Land Acquisition Act, 1894 (hereinafter referred to as 1894 Act) seeking further enhancement by making challenge to the award dated 14.03.2018. Somehow, the said reference filed under Section 18 of 1894 Act was forwarded by the Land Acquisition Collector to the Reference Court and the same even got adjudicated upon vide award dated

07.08.2019 by the Court of Ld. Addl. District Judge, Sirsa, partly allowing the same while fixing market value of the acquired land to the tune of Rs.20,35,000/- per acre besides granting other statutory benefits under the 1894 Act to the land owners.

4. By way of present appeal, the aforesaid award dated 07.08.2019 passed by the Court of Addl. District Judge, Sirsa in LAC-52-2018 has been impugned at the instance of present appellants/land owners and as per the information provided by Mr. Shivendra Swaroop, DAG Haryana even the State is in the process of filing separate appeal on its behalf.

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

6. On the face of it, the acquisition proceedings in the present case were carried out under the provisions of 2013 Act, however, as an act of inadvertence the land owners/appellants invoked Section 18 of 1894 Act while filing reference thereby seeking enhancement of compensation which even stood forwarded to the Reference Court and stood adjudicated upon, as well.

7. As, the land owners/ appellants were required to invoke Section 54 of 2013 Act for the purpose of seeking enhancement of compensation while impugning the award dated 14.03.2018 made under Section 23 of 2013 Act, considering the fact that substantively the provisions of 1894 Act as well as 2013 Act as regards the procedure of filing of reference besides the period of limitation and the Court designated in the State of Haryana for this purpose are pari

materia, in the interest of justice, I deem it appropriate to set aside the award dated 07.08.2019 passed by Reference Court by remanding the same with a request to treat reference filed under Section 18 of Land Acquisition Act as having been under Section 54 of 2013 Act and to decide the same, keeping in view the rights and benefits available to the land owners/appellants under Sections 26-30 of 2013 Act.

8. Disposed of in the above terms.
9. As the matter pertains to acquisition proceedings initiated in the year 2016, the Reference Court is requested to pass the award preferably within a period of six months from today.

04.07.2023
tejwinder

(HARKESH MANUJA)
JUDGE

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

