

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

CWP No.29205 of 2022

Date of decision: 16.02.2023

Mahinder Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA
HON'BLE MR. JUSTICE GURBIR SINGH**

Present: Mr. Karan Nehra, Advocate
for the petitioners.

G. S. SANDHAWALIA J. (ORAL)

1. The petitioners seek re-assessing of compensation for land acquired vide notification dated 20.11.2006 (Annexure P-1) and 13.04.2007 read with Sections 4 & 6 along with Section 17(1) of the Land Acquisition Act, 1894 (for short '1894 Act').
2. The claim is based on the ground that final award has not been passed under Section 11 of the 1894 Act, and therefore provision of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act'), is sought to be invoked. In the alternative, the benefit of enhanced compensation as granted to other land owners in RFA No.3367 of 2011 dated 27.01.2016 (Annexure P-3), is also sought.
3. Learned counsel for the petitioners has submitted that in view of Article 300A of the Constitution of India, no person can be deprived of his property save by the authority of law. Resultantly, he has referred to the award dated 12.04.2008 (Annexure P-2), wherein the Collector while

assessing the market value, has mentioned that there are some structures in the land being acquired and the assessment had not been done by the department concerned and supplementary award has to be announced after obtaining the assessment. The land is stated to be situated in village Andana for which Rs.6,00,000/- per acre had been assessed as compensation. The claim as such of the petitioners is that they are owners of 9 kanals of the land.

4. Perusal of Section 4 of the notification would gone to show that land was acquired for the construction of embankments and widening of river Ghaggar in District Patiala to save the agricultural land and village abadis from floods. Provisions of Section 17(1) of the 1894 Act were also invoked and the quantum of total land of 10 villages was 602.25 acres.

5. A perusal of the writ petition would also gone to show that there was an averment that the structures appear in the form of Tali and Kikkar (trees), Tube wells, Water Pond connecting Tube Well and Water Channels (Khala) and one electricity connection. There is no specific averment as to in which khasra number, the said alleged structures were there. Apparently, for the land in question, other land owners had filed references under Section 18 of the 1894 Act seeking enhancement from the amount of compensation at Rs.6,00,000/- per acre, which was dismissed by the Reference Court on 15.12.2010. Consequently, 110 appeals came to be listed before the learned Single Judge of this Court, who vide **RFA No.3367 of 2011** titled as ***Sadhu Ram vs. State of Punjab*** enhanced the compensation to Rs.15,95,600/- for 9 villages including

village Andana whereas for one village Khanouri Rs.21,00,000/- was assessed. It is not disputed that the writ petitioners have also received the compensation which has been deposited by the State as per averments made in para 10. Apparently, the petitioners never chose to file any reference petition before the Reference Court for their grievances and after a period of more than a decade, started seeking information on 13.10.2020 (Annexure P-6) as to whether any supplementary award was passed or not which pertained to the super structures. Resultantly, representation thereafter was filed on 28.04.2021 (Annexure P-9), wherein now a plea taken is that compensation should be reassessed under Section 24 read with Section 3 of the 2013 Act and re-determination should be done as the award has not been passed under the 1894 Act for the super structures.

6. We are of the considered opinion that the writ petitioners have not been able to satisfy us as to whether there were any super structure on the land owned by them. The writ petition is silent regarding the revenue details of 9 kanals and neither any proof has been attached in the form of any electricity connection on those set of khasra numbers. Obviously, the petitioners want to take an advantage of the fact that it was mentioned in the award that an assessment would be made of the super structure. As noticed, the land which was acquired was 600 acres and a disputed issue would arise as to whether the super structure was standing on the 9 kanals owned by the petitioners.

7. In such circumstances, though counsel is well justified that the State is enjoined upon to comply with Article 300-A of the Consitution of India but keeping in view the discretion which is to be

exercised under the writ jurisdiction, which is an extra ordinary jurisdiction, the writ petitioners have not been able to make out a case for us to exercise the cause of justice in the peculiar facts and circumstances.

8. It was always open during all these years as such given to file an appropriate application before the Reference Court seeking the claim of higher compensation and separately for super structures by giving appropriate references as to the evidence whether any super structure was there. It would have been for the Reference Court to go in the disputed questions which now the writ petitioners want us to get into. The settled principle in that where disputed issues arise the writ Court would not exercise its jurisdiction.

9. Keeping in view the above, it is not the fit case to call upon the State at this belated stage.

10. Accordingly, the present petition stands dismissed.

11. It will be open to the writ petitioners as such to invoke their alternative remedy, if any, in accordance with law.

(G. S. SANDHAWALIA)
JUDGE

(GURBIR SINGH)
JUDGE

16.02.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No