

CWP No.26731 of 2023 (O&M)

2023:PHHC:151615

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

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**CWP No.26731 of 2023 (O&M)
Date of Decision: 29.11.2023**

VINAY KUMAR**.....Petitioner****Vs****STATE OF HARYANA AND OTHERS****....Respondents****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Ajit Singh Lamba, Advocate
for the petitioner.

HARKESH MANUJA, J. (Oral)

[1]. By way of present writ petition under Article 226 of the Constitution of India, prayer has been made for setting aside the order dated 20.09.2023 passed by the District Revenue Officer-cum-Land Acquisition Collector, Hisar/respondent No.2, whereby an application filed at the instance of petitioner/landowner seeking reference under Section 30 of the Land Acquisition Act, 1894 (hereinafter to be referred as 'the 1894 Act'), stands rejected on merits.

[2]. Briefly stating, in the present case, land owned by the petitioner/landowners situated within revenue estate of village Ladwa, Tehsil and District Hisar was sought to be acquired vide notification dated 13.02.2004 issued under Section 4 of the 1894 Act followed by notification dated 27.10.2004, issued under Section 6 thereof. Thereafter an award dated 31.08.2005 was passed by the Land Acquisition Collector, Hisar.

[3]. As per the claim set up by the petitioner, he purchased the land in question vide sale deed dated 08.02.2005. It is submitted that though on previous

occasion reference under Section 30 of the 1894 Act was forwarded by respondent No.2 at the instance of a person claiming to be original landowner, however the petitioner was never impleaded as a party therein.

[4]. Learned counsel for petitioner further submits that having come to know about the acquisition proceedings as well as the dispute regarding apportionment pending before the Reference Court, the applicant/petitioner immediately moved an application before the concerned Reference Court for recalling of the award dated 20.03.2013 initiated at the instance of interested persons/individuals.

[5]. As per information provided by learned counsel, in the said application though notice was issued by the Reference Court, however the same is still *sub judice*.

[6]. Learned counsel further submits that faced with aforesaid situation, petitioner moved a separate application before respondent No.2 seeking his own independent reference qua apportionment of compensation based on registered sale deed dated 08.02.2005 executed in his faovur *qua* land in question. However, the same stands rejected vide impugned order dated 20.09.2023 while referring to the merits of case.

[7]. Notice of motion.

[8]. On asking of the Court, Mr. Shivendra Swaroop, DAG, Haryana accepts notice on behalf of respondents No.1 and 2. Notice at this stage may not be required to be served upon the other private respondents as the challenge primarily relates to validity of order dated 20.09.2023 passed by respondent No.2.

[9]. I have heard learned counsel for the parties and gone through the contents of the paper book. I find merit in the submissions made by learned counsel for the petitioner.

[10]. The petitioner having purchased the land in question vide sale deed dated 08.02.2005 sought reference under Section 30 of the 1894 Act, claiming himself to be owner of the property in question. Respondent No.2 instead of referring the claim made by petitioner took upon itself to adjudicate upon the merits thereof, apparently exceeding its jurisdiction.

[11]. In view thereof, the order dated 20.09.2023 passed by the District Revenue Officer-cum-Land Acquisition Collector, Hisar/respondent No.2 is hereby set aside and the matter is sent back for its fresh adjudication before respondent No.2 to refer the claim before the Reference Court-cum-Addl. District Judge, Hisar, so as to adjudicate upon the rights of the petitioner based on sale deed dated 08.02.2005 as compared to the rights of his vendors and other interested persons.

[12]. Petition stands disposed of.

November 29, 2023

Atik

Whether speaking/reasoned

Whether reportable

(HARKESH MANUJA)

JUDGE

Yes/No

Yes/No