IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14843-2024 (O/M)
Reserved on : 06.09.2024
Date of decision : 05.12.2024

M/s Piccadily Sugar and Allied Industries Ltd. ...... Petitioner

Versus

Punjab State Industrial Development Corporation Ltd.
and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Anand Chhibber, Senior Advocate with
Mr. Sandeep Singh, Mr. Aman, Mr. Utkarsh Khatana,
Ms. Komal Sharma, Ms. Garima Kuthiala, Advocates
for the petitioner.

Mr. Vikas Chatrath, Mr. Akshat Kalia,
Mr. Abhishek Singla, Ms. Tanya Singla,
Mr. Preet, Advocates
for respondent No. 1-PSIDC.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

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HARSH BUNGER, J.

1. Petitioner (M/s Piccadily Sugar and Allied Industries Ltd.) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 10.02.2023 (Annexure P-21), whereby recovery certificate was issued to recover the alleged dues from the petitioner as arrears of land revenue and all consequential proceedings arising therefrom. A further prayer has been made for quashing the

auction notice dated 07.06.2024 (Annexure P-33), issued by the Assistant Collector 2nd Grade, Patran, Patiala.

2. Briefly, Punjab State Federation of Cooperative Sugar Mills Limited (in short 'Sugarfed') received a letter of intent dated 13.03.1991 from Government of India for establishment of a new unit for the manufacturing of white crystal sugar at Patran, District Patiala (Punjab). It appears that a cooperative society, namely, 'The Patran Cooperative Sugar Mills Limited' was formed for setting up the aforesaid project. For the purposes of construction of the cooperative sugar Mill at Patran, land measuring 991 kanals–6 marlas was acquired, vide award dated 06.06.1991, passed by the Land Acquisition Collector, wherein compensation of Rs. 50,000 per acre was awarded for chahi land alongwith all statutory benefits.

2.1 It transpires that the State of Punjab/State Government decided that the aforesaid letter of intent be implemented through the Punjab State Industrial Development Corporation Limited (in short 'PSIDC') and further that the project be set up in the assisted sector.

2.2 It further transpires that PSIDC and M/s Piccadily Holiday Resorts Limited entered into a collaboration agreement dated 05.03.1993 (Annexure P-1) with one another for the profitable implementation and operation of the aforesaid project through a company to be jointly promoted by them.

2.3 Subsequently, a tripartite agreement dated 03.06.1993 (Annexure P-2) was executed between the Patran Cooperative Sugar Mills Limited, PSIDC and Sugarfed; wherein it was inter alia decided to transfer the aforesaid letter of intent to set up sugar mills in the joint/assisted sector in favour of PSIDC on the terms and conditions as stated therein.

2.4 Thereafter, on the same day, another agreement dated 03.06.1993 (Anneuxre P-3) was executed between PSIDC and M/s Piccadily Sugar and Allied Industries Ltd. (in short 'the petitioner-Company'), whereby PSIDC agreed to get the aforesaid letter of intent transferred in favour of the petitioner-Company alongwith assets and liabilities of the sugar mills, inter alia, on the following conditions :-

> *"2. That the company undertake to pay the State of Punjab directly on behalf of PSIDC a sum of Rs. 11,49,10,150.80 (Rs. Eleven Crore Forty Nine Lacs Ten Thousand One Hundred Fifty and Paisa Eighty Only) i.e. the amount spent by the Sugar Mills towards payment of acquisition of land, payment made to the machinery suppliers, amount spent towards constructions work and under administrative heads etc., the details whereof is attached as Annexure 'A' to this Agreement and forming part thereof, under intimation to PSIDC. This will discharge the PSIDC of its liability towards the amount to the State Government.*
>
> *3. to 8. xxxxx xxxxx xxxxx*
>
> *9. That the company in pursuance to transfer of letter of intent and takeover of all assets and liabilities in terms of this agreement and specially on account of transfer of land in favour of the Company, shall be liable to provide employment to one adult member of each family whose land has been acquired in terms of the decision of State Level Acquisition Board.*
>
> *10. That the Company shall be responsible for all the liabilities in connection with the implementation of the Project and would also meet any undermined liability like encashment of compensation towards*

acquisition of land and the PSIDC shall be indemnified and kept indemnified by the Company.

11. That the company shall be entitled to deal with all legal proceedings in any Court of law pending or likely to arise in future.

12. to 17. xxxxx xxxxx xxxxx

18. That the company has gone through the agreement executed between the PSIDC, the Patran Cooperative Sugar Mills Limited, Patran and the Punjab State Federation of Cooperative Sugar Mills Limited, and hereby agrees to indemnify and keep indemnified the PSIDC against all such losses, damages, diminution, costs charges and expenses whatsoever if any, which the PSIDC may suffer or incur by any reason whatsoever in pursuance to the terms of that agreement.

19. That in case of any dispute relating to the terms and conditions of the Agreement or the interpretation of the Agreement arising between the parties, shall be submitted to Arbitrators whose decision shall be final and binding on the parties."

2.5 Thereafter, on 27.05.1994, a sale deed (Annexure P-4) was executed by PSIDC in favour of the petitioner-Company in respect of land measuring 991 kanals – 6 marlas, situated at village Haryau Khurd, Sub Tehsil Patran, Tehsil Samana, District Patiala, wherein the petitioner-Company, inter alia, agreed and accepted the following terms :-

"2. Now the company agrees and accepts the followings:-

1. That the above-mentioned land shall be used for above noted purpose (to establish a sugar mill) and any other purpose which is approved by the Government, shall use the land for that purpose only and except that cannot be used for any other purpose.

2. Company will continuously cooperate with the concerned department and office and whenever a suit or claim is or will be filed by the previous land owners in any court of law, seeking enhancement of compensation of land will take such steps that will safeguard the interest of the company.

3. Company through corporation shall pay to the Govt. such amount which would be required by it for the payment of enhanced compensation, which will include all costs, charges, and other expenses that includes interest etc. which is decided in reference appeal, further appeal and writ petition or litigation. In case of any, default, it will be liable to pay the Govt./Corporation said amount as arrears of land revenue.

4. and 5. xxxxx xxxxx xxxxx"

2.6 The aforesaid sale deed dated 27.05.1994 also contained an indemnity clause as well as an arbitration clause, which reads as under :-

"4. Now, both the parties agree as under :-

1. and 2. xxxxx xxxxx

3. That the Company agrees to indemnify and will keep indemnifying the Corporation against such loss, expenses, charges, of any kind, expenses or losses arising out of this sale deed.

4. That if any dispute or controversy arises with regard to any clause or any fact incorporated in this sale deed or with regard to any rights or obligations arising therefrom or with regard to any dispute concerning this sale deed or reference shall be decided by an arbitrator appointed under the provisions of the Arbitration and Conciliation Act, with the consent of both the parties, whose decision shall be binding on both the parties."

3. Apparently, the land owners, whose land was acquired in village Haryau Khurd for setting up of the aforesaid sugar mill, challenged the land acquisition award dated 06.06.1991 by submitting their respective references before the learned Additional District Judge, Patiala, who vide its award dated 06.01.1999 (Annexure P-5), dismissed the references as regards enhancement of compensation for the land is concerned. However, the compensation for the tubewells was enhanced.

3.1 It transpires that the aforesaid land owners challenged the award dated 06.01.1999 (Annexure P-5), by preferring their respective appeals before this Court, wherein the lead case was RFA-2216-1999, which came to be decided, vide order dated 05.11.2012 (Annexure P-9), whereby the amount of compensation for chahi land was increased from Rs. 50,000/- to Rs. 1,36,500/- alongwith all statutory benefits.

3.2 Thereafter, the land owners filed an execution application before the learned District Judge, Patiala, claiming enhanced compensation as awarded by this Court, vide order dated 05.11.2012 (Annexure P-9).

4. Evidently, in pursuance to the execution proceedings initiated by the land owners for claiming enhanced compensation, the concerned Land Acquisition Collector wrote to the PSIDC as well as Sugarfed to make the payment of the enhanced compensation, however, they maintained that in terms of the agreements executed between the parties, the liability to make the payment of enhanced compensation rested with the petitioner-Company. On the other hand, the petitioner-Company refused to make the payment of enhanced compensation.

5. It appears that PSIDC, vide its letter dated 15.02.2022 (Annexure P-13), called upon the petitioner-Company to make payment of enhanced compensation; however, the petitioner-Company responded to the aforesaid letter dated 15.02.2022 by way of reply dated 03.03.2022 (Annexure P-14), wherein it was stated that they had no liability to deposit the enhanced compensation as the pendency of the proceedings for enhancement of compensation was never brought to their knowledge nor they were made party to the said proceedings.

6. The PSIDC, vide letter dated 20.12.2022 (Annexure P-16), called upon petitioner-Company to attend a meeting convened for 23.12.2022 under the Chairmanship of Managing Director, PSIDC to discuss the issue concerning payment of enhanced amount of compensation alongwith interest in respect of the execution petition pertaining to acquisition of land. However, the petitioner-Company, vide its letter dated 23.12.2022 (Annexure P-17), expressed their inability to attend the aforesaid meeting dated 23.12.2022. Rather, the petitioner-Company through their counsel served a notice upon PSIDC in terms of Clause 19 of the Agreement dated 03.06.1993 (Annexure P-3) as well as Clause 4 (4) of the Sale Deed dated 27.05.1994 (Annexure P-4), invoking arbitration.

6.1 Evidently, in the meeting dated 23.12.2022 held under the Chairmanship of Managing Director, PSIDC, it was decided to send the matter to Collector Land Acquisition-cum-SDM, Patran, for taking legal action against petitioner-Company for payment of requisite amount in order to satisfy the execution petition.

7. Thereafter, the Land Acquisition Collector-cum-SDM, Patran, vide its letter dated 31.01.2023 (Annexure P-20), called upon the petitioner-Company to deposit the amount of enhanced compensation, however, since the amount was not paid, accordingly, the matter was referred to the District Collector, Patiala, vide letter dated 10.02.2023 (Annexure P-21) by issuing a recovery certificate to effect recovery of the outstanding amount as arrears of land revenue. It transpires that the learned Collector, District Patiala, vide office order dated 07.03.2023 (Annexure P-25), accorded sanction to recover the amount of Rs. 8,85,56,749/- alongwith interest as arrears of land revenue by auctioning the land owned by the petitioner-Company i.e. land measuring 991 kanals – 6 marlas in village Haryau Khurd.

7.1 In the meanwhile, the petitioner-Company initiated proceedings for appointment of an arbitrator by filing a petition (ARB-82-2023), which came to be allowed by this Court, vide order dated 06.10.2023 (Annexure P-28), whereby Justice (Retd.) Darshan Singh was appointed as an Arbitrator, who rendered the award dated 27.05.2024 (Annexure P-32). The relevant extracts of which read as under :-

> *"72. The conjoint reading of the terms and conditions of the Agreement and Sale Deed indicates that the respondent Company took over the assets and liabilities of the Project including the responsibility to indemnify the claimant qua losses etc. including the enhancement of compensation for acquisition of land for the Project.*
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> *73. The respondent Company is refuting its liabilities to pay the amount of enhanced compensation for acquisition of land primarily on the ground that the respondent Company*

was not informed by the claimant about the pendency of proceedings for enhancement of the compensation. In view of this plea raised by the respondent Company, we are to firstly see as to whether there was any obligation on the claimant to inform the respondent Company. Secondly, whether any information about the pendency and result thereof was conveyed to the respondent and thirdly, whether the respondent company had knowledge and was aware of the pendency of the proceedings before the Courts and was required to take the steps to safeguard/protect its interests.

74. As per Clause 11 of the Agreement Ex-CW1/3, the respondent Company was made entitled to deal with all legal proceedings in any Court of law pending or likely to arise in future. Thus, it is nowhere provided that the respondent Company was to deal with the legal proceedings pending in the Court or likely to arise in future only on receiving the information from the claimant or the Government. It was the responsibility of the respondent to deal with the legal proceedings on its own.

75. Clause 2.2 of the Sale Deed Ex-CW1/5 also depicts that it was the responsibility of the respondent Company to cooperate with the concerned Department and the office whenever the suit or claim was or will be filed by the previous owners of the land for enhancement of the compensation and it will take steps to protect/safeguard its interests. So, even in the terms and conditions of the Sale Deed, it is nowhere provided that such steps were to be taken by the respondent Company only on receiving the information. Thus, there was no obligation on the part of claimant Corporation to give any information regarding pendency of the litigation for enhancement of the compensation to the respondent.

76. Even otherwise, there is enough documentary evidence on record to show that the respondent Company *was given information from time to time regarding the pendency of the litigation for enhancement of compensation of the acquired land. Ex.CW1/6 is the copy of the letter dated 18th May, 1999 written by the claimant to the respondent Company asking to deposit the balance amount of the Award with the Sub Divisional Officer (Civil)-cum-Land Acquisition Collector, Samana. Ex.CW1/7 is the copy of the letter dated 03-07-2000 whereby intimation had been given to the respondent regarding pendency of RFAs No.2217 and 2218 of 1999 before the Hon'ble High Court for 05-07-2000. The respondent Company was advised to defend the aforesaid cases in terms of Clause 10 of the Agreement. Ex.CW1/8 is the copy of the letter dated 21-11-2000 which shows that the respondent Company has deposited part of the amount in compliance of the order dated 06-01-1999 passed by the Reference Court though under protest. Ex.CW1/9 (Vernacular copy Ex-CW2/7) is the copy of the letter dated 21-11-2000. This letter has been written by the Sub Divisional Magistrate, Samana to the Financial Commissioner Revenue, Punjab, Chandigarh. In this letter, clear reference has been given regarding the pendency of RFAs before the Hon'ble High Court. In this letter, it was also mentioned that the SUGARFED and PSIDC have put off the liabilities on the respondent Company for making the payment. Copy of this letter has been sent to the Managing Director, Piccadily Sugar and Allied Industries, Sector 34, Chandigarh.*

77. Again there is the copy of the letter dated 18-08-2001 Ex-CW1/10 from the Sub Divisional Magistrate, Samana to the Managing Director, PSIDC and Managing Director of the respondent Company whereby the pendency of RFAs before the Hon'ble High Court with its next date of hearing has been categorically intimated. It was also intimated that the Execution Case was pending in the Court of Ld.

Additional District Judge, Patiala and the date of hearing in that case was also intimated, then there is the copy of the letter dated 27-08-2001 Ex.CW1/11 (vernacular copy Ex.CW2/12) which has been written by the Sub Divisional Magistrate, Samana to the Ld. Dy. Advocate General, Punjab wherein again the Reference of all the RFAs has been made and it has been stated that as per Clauses 9 and 10 of the Agreement between the parties, the respondent Company was responsible for all the payments. Copy of this letter has been sent to the Managing Director, Piccadily Sugar and Allied Industries Limited, Patran with a request that those cases were to be defended by them in the Hon'ble Punjab and Haryana High Court, Chandigarh.

78. The copy of the letter dated February 13, 2017 Ex.CW1/13, shows that the claimant has intimated the Collector, Land Acquisition cum Sub Divisional Magistrate, Patran that the respondent Company will be responsible for the payment of the enhanced amount of compensation along with interest in compliance of the judgment dated 05-11-2012 passed by the Hon'ble High Court. Copy of this letter has been sent to the Managing Director of the respondent Company with a request to comply with the directions of the Hon'ble High Court dated 05-11-2012 as also to contact the office of the Collector Land Acquisition-cum-Sub Divisional Magistrate, Patran. The claimant has again sent the registered/Speed Post letter dated 12.02.2017 to the respondent Company for deposit of enhanced amount of compensation amounting to Rs.27,08,176/-. Copy of this letter has also been sent to the offices of the respondent Company at New Delhi and Chandigarh addresses. Though this letter relates to the compensation amount of the land situated in Village Hamjheri but still it shows that the respondent was duly informed with respect to the demand of payment on account of enhancement of compensation for *acquisition of land of the same project. Similar letter has been sent by the claimant Corporation to the respondent Company on March 6, 2017, bearing No. PSIDC:PPD:4619-21 copy available in the evidence file. Vide this letter, the Respondent Company has been asked to deposit the enhanced amount of compensation along with interest in view of the judgment dated 05-11-2012 passed by the Hon'ble High Court in RFA 2216 of 1999 and other connected cases. So, this letter relates to payment of enhanced compensation for acquisition of land situated in Revenue Estate of Village Haryaoo Khurd i.e. the land in question in the present case. Similar letter has been sent by the claimant to the respondent Company on March 21, 2017 bearing No. PSIDC:PPD:4754-56 copy thereof is available in the evidence file.*

79. The respondent Company has issued the letter dated 22-02-2017 copy Ex.CW1/15 to the Sub Divisional Magistrate cum Collector, Patran and the claimant PSIDC wherein the receipt of the letters dated 16-02-2017 and 17-02-2017 have been admitted but the blame has been put upon the claimant.

80. The respondent Company was even informed to attend the meetings to resolve the matter regarding the execution proceedings pending in the Court but the respondent choose not to attend the said meetings. It is pertinent to mention here that in the said meeting it was decided that the appellant claimant will deposit the amount of Rs.27,08,176/- in terms of the orders of Hon'ble High Court dated 05.11.2012, in two installments and the said amount was recoverable from the respondent Company as arrears of land revenue in terms of the Agreement dated 03-06-1993. This payment relates to acquisition of land situated in Village Hamjheri.

81. CW2 Hardev Kumar has proved the copy of the letter Ex.CW2/1 dated 22-03-2000 written by the Sub Divisional Magistrate, Samana to the Managing Director, SUGARFED, Managing Director, PSIDC (claimant) and the Managing Director of the respondent Company wherein the intimation regarding pendency of RFAs before the Hon'ble High Court has been given and the addresses have been requested to pursue of the cases. Similarly, the letter Ex.CW2/3 dated 06-06-2000 shows that the Sub Divisional Magistrate, Samana has requested the Managing Director, SUGARFED, Managing Director, PSIDC and the Managing Director of the respondent Company to defend the cases pending before the Hon'ble High Court so that the interest of the State may not suffer.

82. CW2 has further proved the copy of letter dated 28-02-2000 Ex.CW2/9 which clinches the matter that due information was in fact given to the respondent Company regarding the pendency of litigation from time to time. This letter shows that even the officers of the respondent Company have attended the meeting on 25-02-2000 but they were without having any record. It shows the callous attitude of the respondent Company towards the matter. The letter Ex.CW2/11 dated 18-08-2001 from the Sub Divisional Magistrate, Samana to the Managing Directors of the parties shows that the due information has been given regarding pendency of the RFAs before the Hon'ble High Court.

83. The aforesaid letters clearly establish that due intimation regarding the Award dated 06-01-1999 and pendency of RFAs was given to the respondent Company from time to time.

84. The Ld. Senior Counsel for the respondent Company has attacked the evidentiary value of these letters on the ground that no presumption of truth is attached to these *letters, the concerned dispatch clerk has not been examined and there is no certificate of posting as per Rule 195 of the Postal Rules. But these contentions are without any substance as the receipt of some of the letters has been conceded by the respondent Company even in the letters written by it to the authorities. Ex.CW1/15 is the copy of the letter dated 22-02-2017 which shows that this letter has been sent by respondent company to the SDM and claimant corporation in response to the letters dated 16-02-2017 and 17-02-2017 received by it on 20-02-2017. Again, the letter Ex.CW1/8 (CW2/10) dated 21-11-2000 depicts that the same has been written in response to the various letters received by the respondent Company refuting its liability to pay any amount. Copy of the letter dated 06-09-2002 Ex.CW2/15 shows that the part amount of Rs.1,30,131/- has been deposited by the respondent Company in compliance of the Award dated 06-01-1999. These admissions on the part of the respondent Company show that the letters written by the Sub Divisional Magistrate, Patran and the claimant were in fact received by the respondent Company. In view of this direct evidence there is no requirement to draw any presumption.*

85. xxx xxx xxx

86. There are various circumstances to presume that respondent company had every knowledge and was fully aware of the pendency of litigation. The award by the reference Court was passed on 06.01.1999 and the reference was instituted in the court of learned District Judge, Patiala on 05.08.1997. Thus the reference remained pending for about one and a half year. Similarly, the RFAs were instituted in the year 1999 and were decided by the Hon'ble High Court on 05.11.2012, which remained pending for more than 12 years. The respondent company was in possession of the acquired land and as per the agreement *and sale deed it was ultimately liable for payment of the enhanced compensation. So it is not believable that respondent will be totally ignorant about the ongoing litigation with respect to the land on which they were in possession and carrying on the business.*

87-91. xxx xxx xxx

92. There is nothing on record to show that the claimant has breached the terms and conditions of the agreement. As already discussed in detail, as per the terms and conditions of the agreement as well as the sale deed, it was the duty and responsibility of the respondent company to keep the track of the litigation pending in the courts for enhancement of compensation of the acquired land. The respondent-company was informed from time to time of the pending litigation. Various circumstances discussed above clearly indicate that respondent company was having due knowledge and was fully aware of the pendency of litigation but no steps have been taken by it to participate in the litigation for determination of the market value of the acquired land. The respondent company has also not come forward to make the payment of enhanced amount of compensation in spite of repeated demands in writing by the SDM-cum-Collector and the claimant. Even the proceedings for recovery of the amount as arrears of land revenue have been initiated against the respondent company.

93-135. xxx xxx xxx

136. Thus, keeping in view my aforesaid discussions and findings on the issues, the claim petition filed by the Punjab State Industrial Development Corporation (PSIDC) is hereby allowed. The respondent Company shall be liable for payment of a sum of Rs.9,10,32,706/- due as on 07-11-2023. Further, as per Clause 2.3 of the Sale Deed dated 27-05-1994 as the payment is to be made through the claimant Corporation so, the respondent Company shall *deposit the aforesaid amount with the claimant Corporation within a period of two months from the date of pronouncement of this Award and the claimant Corporation shall further deposit the aforesaid amount with the Collector, Land Acquisition, Patran, within a week from the date of receiving the payment, for disbursement to the land owners of the acquired land situated in the revenue estate of Village Haryaoo Khurd."*

7.2 A perusal of the above extracted findings returned by learned Arbitrator would show the following :-

(a) there are various letters which clearly establish that due intimation regarding the award dated 06.01.1999 and also the pendency of RFAs was given to the petitioner-Company from time to time ;

(b) the petitioner-Company was fully aware of the pendency of the proceedings as regards the acquired land ;

(c) there is nothing to show that PSIDC has breached the terms and conditions of the agreement ;

(d) as per the terms and conditions of the agreement as well as sale deed, it was the duty and responsibility of the petitioner-Company to keep track of the litigation pending in courts for enhancement of compensation of the acquired land ;

(e) no steps were taken by the petitioner-Company to participate in the litigation for determination of the market value ;

(f) petitioner-Company has not come forward to make the payment of enhanced amount of compensation in spite of repeated demands in writing by the SDM-cum-Collector and also by PSIDC ;

(g) the proceedings for recovery of amount as arrears of land revenue have already been initiated ;

(h) petitioner-Company has been held liable for payment of a sum of Rs. 9,10,32,706/- due as on 07.11.2023 and in terms of Clause 2.3 of the sale deed dated 27.05.1994, the payment is to be made through PSIDC, therefore, the petitioner-Company has been directed to deposit the aforesaid amount with PSIDC within a period of two months from the date of pronouncement of the award.

8. In the backdrop of the aforementioned circumstances, the petitioner-Company has filed the instant civil writ petition for seeking relief(s), as noticed hereinabove.

9. At the time preliminary hearing of instant civil writ petition on 02.07.2024, a submission was made before this Court in reference to the impugned auction notice dated 07.06.2024 (Annexure P-33) that the auction of the property which was scheduled for 08.07.2024; had been postponed till further orders.

9.1 Thereafter, on 15.07.2024, the following order was passed by this Court:-

> *" Learned senior counsel appearing for the petitioner submits that as per the Award dated 27.05.2024 (Annexure P-32), the petitioner-Company is liable to make the payment of the awarded amount within a period of two months from the date of pronouncement of the award, which would be lapsing on 26.07.2024. It is submitted that*

as per the provisions of Section 34 of Arbitration and Conciliation Act, 1996 (in short \1996 Act'), the period of limitation for challenging the award is 3 months. It is submitted that in case, respondent-State keeps the proceedings of recovery in abeyance for the duration of 3 months (which is the limitation period to challenge the award) i.e. upto 26.08.2024, the petitioner-Company would withdraw the writ petition.

Learned counsel for respondent No. 1 seeks a short accommodation to get necessary instructions in that regard.

At his request, adjourned to 16.07.2024.

To be taken up at 2.00 pm."

9.2 However, on 16.07.2024, although the counsel for PSIDC made a statement that the Corporation would keep the proceedings for recovery in abeyance for three months from the date of Award, however, learned senior counsel appearing for the petitioner-Company withdrew his statement made on 15.07.2024 by submitting that the recovery certificate dated 10.02.2023 (Annexure P-21) would have to be set aside as the same has been wrongly issued by invoking the provisions of Section 13 (a)(3) read with Section 17 (3)(b) of the Land Acquisition Act, 1894 (in short '1894 Act').

10. During the course of final hearing of this petition, the learned senior counsel for the petitioner-Company reiterated his argument that the recovery certificate dated 10.02.2023 (Annexure P-21) has been wrongly issued by invoking the provisions of Section 13 (a)(3) read with Section 17 (3)(b) of the 1894 Act, whereas the land in question has not been acquired for the petitioner-Company by invoking the provisions of Part VII of 1894 Act.

10.1 Per contra, learned counsels appearing for respective respondents submit that the recovery proceedings have been initiated in accordance with the contractual terms as well as the provisions of Section 3 (1)(c) of the Punjab Public Moneys (Recovery of Dues) Act, 1983 (in short '1983 Act') and merely mentioning of incorrect provisions in the recovery certificate would not invalidate the recovery proceedings initiated against the petitioner-Company, especially in the light of the fact that even the learned Arbitrator, vide its award dated 27.05.2024 (Annexure P-32), has held the petitioner-Company liable for payment of a sum of Rs. 9,10,32,706/- (due as on 07.11.2023). Accordingly, prayer has been made for dismissal of the writ petition.

11. Heard.

12. I have considered the rival submissions made on behalf of respective parties. It is apposite to refer to a few provisions of 1983 Act, which are reproduced below :-

> *"2. Definitions. In this Act, unless the context otherwise requires :-*
>
> *(a) 'Banking company' means -*
>
> *xxx xxx xxx*
>
> *(b) "Collector" means a Collector of the district and includes any person appointed by the State Government to perform the functions of a Collector under this Act;*
>
> *(c) "Corporation" means the Punjab Financial Corporation established under the State Financial Corporations Act, 1951 and includes any other corporation owned or controlled by the Central Government or the State Government which the State Government may, by notification specify;*

xxx xxx xxx

(3) Recovery of certain dues as arrears of land revenue. - (1) Where any person is a party

(a) to any agreement, relating to a loan, advance or grant given or relating to credit in respect of, or relating to hire-purchase of goods sold by the State Government, a banking company, a Corporation or a Government company, as the case may be, under the State sponsored scheme; or

(b) to any agreement relating to a guarantee given by the State Government, a banking company, a Corporation or a Government Company in respect of a loan raised by an Industrial Concern; or

(c) to any agreement providing that any money payable thereunder to the State Government shall be recoverable as an arrears of land revenue :-

(i) makes any default in repayment of the loan or advance or any instalment thereof; or

(ii) having become liable under the conditions of the grant to refund the grant or any portion thereof, makes any default in the refund of such grant or any portion thereof; or

(iii) otherwise fails to comply with the terms of the agreement;

then in the case of the State Government, such officer as may be authorised in that behalf by the State Government by notification, and in the case of a banking company, a Corporation or a Government Company, the Managing director, thereof, by whatever name called, may send a certificate to the Collector mentioning the sum due (emphasis supplied) from such person and requesting that such sum together with costs of the proceedings be recovered as if it were an arrear of land revenue.

(2) A certificate sent under sub-section (1) shall be conclusive proof of the matter stated therein and the Collector on receiving such certificate shall proceed to recover the amount stated therein as an arrear of land revenue."

12.1 It is not disputed before this Court that PSIDC is a Corporation within the meaning of Section 2 (c) of 1983 Act. It is also not disputed that in terms of the agreement(s)/Sale Deed executed between the parties, PSIDC is competent to raise demand in respect of enhanced compensation and further to recover the same as arrears of land revenue.

12.2 Apparently, Section 3 (1)(c)(iii) of 1983 Act contemplates that where any person is a party to any agreement providing that any money payable thereunder to the State Government, shall be recoverable as arrears of land revenue and if such person fails to comply with the terms of the agreement, then in case of a Corporation, the Managing Director thereof may send a certificate to the Collector mentioning the sum due with cost of proceedings be recovered as arrears of land revenue.

12.3 One of the earliest cases on the issue is that of ***Director of Industries, U.P. and others v. Deep Chand Aggarwal, (1980)2 SCC 332***, wherein the identical provisions contained in the U.P. Public Moneys (Recovery of Dues) Act, 1965, were being considered by the Hon'ble Supreme Court. It may be noticed that Section 3 of the Act is *pari-materia* with Section 3 of the U.P. Act. The Hon'ble Supreme Court, has held to the following effect :

"It may be seen that Section 3(1)(c) of the Act provides that where any person is a party to any agreement providing that

any money payable thereunder to the State Government shall be recoverable as arrears of land revenue and such person makes any default in repayment of the loan or advance or any instalment thereof then the arrears due and payable by him may be recovered as if it were an arrear of land revenue by issuing a certificate to the Collector. The remedy of the State Government to recover the amount by instituting a suit also remains unaffected by the Act."

12.4 In the instant case, a conjoint reading of the agreements dated 05.03.1993 (Annexure P-1), 03.06.1993 (Annexure P-2 and Annexure P-3) as well as sale deed dated 27.05.1994 (Annexure P-4) would manifest that the petitioner-Company had clearly undertaken the liability for payment of enhanced compensation towards acquisition of land and had also further undertaken to keep PSIDC indemnified in that regard and also as regards any losses, damages, diminution, cost, charges and expenses. That apart, in terms of Clause 2 (3) of sale deed dated 27.05.1994 (Annexure P-4), the petitioner-Company had further agreed that in case of any default on its part for the payment of enhanced compensation, it shall be liable to pay the Government/Corporation the said amount as arrears of land revenue.

12.5 In view of the above, once the petitioner-Company had clearly undertaken to pay the enhanced compensation on account of acquisition of land for the sugar mill and having further agreed that in case of any default on its part to make the said payment, the Government/Corporation is entitled to recover the same as arrears of land revenue; coupled with the fact that vide award dated 27.05.2024 (Annexure P-32), the petitioner-Company has already been held liable to the payment of Rs. 9,10,32,706/- (due as on 07.11.2023) to PSIDC within a period of two months from the date of award i.e. upto 26.07.2024 and admittedly, no payment being made by the petitioner-Company in terms of award dated 27.05.2024 nor producing any stay order in the petition filed by it under Section 34 of Arbitration and Conciliation Act, 1996, for challenging the aforesaid award dated 27.05.2024; therefore, no fault can be found with the proceedings initiated by the authorities for recovery of the amount due from the petitioner-Company merely on the plea that in the recovery certificate, the reference has been made to Section 13 (a)(3) read with Section 17 (3)(b) of the 1894 Act. It has also come on record that the petitioner-Company had paid compensation for the structures, as granted by learned Additional District Judge, Patiala, vide its award dated 06.01.1999 (Annexure P-5). To that extent, it is observed that the petitioner-Company has already admitted its liability to pay the enhanced compensation. It is well settled that the court can always correct the provisions of law and rectify the technical irregularity, whenever the circumstances so warrant. In the peculiar facts and circumstances of the instant case, the recovery proceedings initiated against the petitioner-Company shall be taken to have been initiated in pursuance to the provisions of the Punjab Public Moneys (Recovery of Dues) Act, 1983.

13. In view of the aforementioned facts and circumstances, I do not find any merit in the instant civil writ petition and the same is accordingly dismissed. However, the petitioner-Company is afforded two months' time from today, to make the payment of outstanding dues to respondents; failing which, respondents shall be at liberty to proceed with the finalization of the auction proceedings of the attached property, if already auctioned. In case, the auction proceedings have not been held

for any reason whatsoever, the same shall be conducted after the expiry of the above referred two months' period in accordance with law.

14. The instant civil writ petition is accordingly dismissed with the aforesaid observations.

15. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

05.12.2024
sjks

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No