135

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 6571 of 2018 (O&M)
Date of Decision: 03.12.2025

State of Haryana and others .... Petitioners

Versus

Bhupinder Singh and others .... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Abhinav Kalia, Deputy Advocate General, Haryana for the petitioners/Judgment Debtors-State of Haryana.

Mr. Rampal Kaushik, Advocate and
Mr. Deepak Jaglan, Advocate
for the respondents-Decree Holders.

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HARKESH MANUJA, J. (ORAL)

The petitioners-Judgment Debtors, by way of present revision petition, seek setting aside of the orders dated 09.07.2018 & 24.09.2018 (Annexure P-2 colly) passed by the learned Additional District Judge, Yamuna Nagar at Jagadhri-cum-Executing Court, whereby in the Execution Petitions pending at the behest of the respondents-Decree Holders, directions have been issued for the attachment of DDO Accounts of the petitioners.

FACTS

[2] Briefly stating, vide notifications dated 20.09.2004 & 04.11.2004 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 **(for short "1894 Act")** respectively, total 830.10225 acres of land situated within the revenue estate of Village Khera, Tehsil Jagadhri, District Yamuna Nagar was acquired for the public purpose, namely, Dadupur-Nalvi Canal Project. An award under Section 11 of the 1894 Act was passed by the Land Acquisition Collector **(for short "LAC")** on 02.12.2005, whereby the market value was assessed at the rate of Rs. 5 lakhs per acre besides other statuotry benefits. As a matter of fact, 25 bigha 2 biswas of land owned by the respondents-landowners also came to be acquired vide above-mentioned acquisition.

[3] Aggrieved of the determination made by the LAC, the respondents-landowners sought reference petition(s) under Section 18 of the 1894 Act, which was decided on 17.03.2010 and the market value was enhanced to Rs. 8 lakhs per acre. Still aggrieved, the respondents-landowners filed Regular First Appeal(s) which were decided on 05.05.2016 and the market value was further enhanced to Rs. 2,887/- per square meter.

[4] Based on the aforesaid, the respondents-landowners filed execution application bearing ***EXE-323-2016***, titled ***"Ramesh Kumar etc. Versus State of Haryana etc."***, and the learned Executing Court, while passing the order dated 09.07.2018, issued the following directions:-

> *" In view of totality of above facts; it is ordered that:-*
> *" (a) DDO Code/Name:1823 and head of account 2700-02-001-91-51-24-P-N-V, 2700-18-001-91-51-24-P-N-V, 4701-80-800-98-51-24-P-N-C, 4711-01-201-99-51-24-P-N-V of XEN, Irrigation and Water Resources Canal Colony, Jagadhri, District Yamuna Nagar;*
> *(b). DDO No.1830 of O/o XEN Water Works Division, Dadupur, District Yamuna Nagar;*

> *(c). DDO No.1825 of O/o XEN & 1827 of O/o SE, Hathni Kund, Bairaz, Jagadhri, District Yamuna Nagar;*
>
> *are hereby attached. It is made clear that if in all these heads mentioned above, there is any Head concerning Salary, the same will not be attached and rest of the Heads be attached.*
>
> *The attachment report be awaited for 24.07.2018."*

The aforesaid direction was passed in other similar pending executions as well.

[5] Thereafter, in execution application bearing ***EXE-318-2016***, titled ***"Bhupinder Singh Versus State of Haryana etc."*** prayer was made for seeking release of the aforementioned attachment at the instance of petitioners-State of Haryana before the same Court, however, it was declined vide order dated 24.09.2018 with the following observations:-

> *" 13. Dealing with the similar situation, wherein also after acquiring the land and taking possession; the Govt. denotified the land; the Hon'ble Apex Court in case titled as Pimpri Chinchwad New Township Development Authority Vs. Vishnudev Cooperative Housing Society and others, Civil Appeal No. 7649 of 2018 arising out of SLP (C) No. 20188 of 2017, decided on 3.8.2018 has held as under in para 39, 40 and 45 of the judgment:*
>
> *"39. A fortiori so long as the possession is not taken of the acquired land, the State is at liberty to withdraw from the acquisition either partly or fully depending upon the facts of each case.*
>
> *40. Section 16 of the Act empowers the Collector to take possession of the acquired land on passing of an award under Section 11 of the Act. Once the Collector takes possession, the acquired land vests absolutely in the Government free from all encumbrances as provided therein.*
>
> *45. Once we hold that the possession of the land in*

> *question was taken by the State in accordance with law on 30.5.2004 from the landowners, we have no hesitation in holding that the provisions of Section 48 of the Act were not applicable to the case at hand. In other words, once it is held that the possession of the acquired land was with the State, the land stood vested in the State dis-entitling the State to release the land from the acquisition proceedings by taking recourse to the provisions of Section 48 of the Act."*
>
> *14. This being so, application filed by JDs under consideration sans merit and the same is dismissed. Direction is issued to Treasury Officer to remit the amount in court to the extent of Rs.2,73,53,078/- on or before 4.10.2018 (date already fixed). Simultaneously, Secretary to Govt. of Haryana, Irrigation and Water Resources Department would also come present in the court on 4.10.2018 with specific affidavit, explaining the status of deposit of amount. The order of the court be conveyed to the Secretary to Govt. of Haryana, Irrigation and Water Resources Department, through the office of District Attorney."*

Hence the present revision petition.

CONTENTION(S)

ON BEHALF OF THE PETITIONERS-STATE OF HARYANA

[6] The only stand taken by the petitioners-State of Haryana is that out of the total acquired land measuring 830.10225 acres, an area measuring 5.03 acres has only been utilized, whereas the remaining land already stands de-notified in terms of the powers exercised under Section 101-A of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment) Act, 2017 (Act 21 of 2018) **(for short "2017 Act")**, and as a result thereof, only 9 bigha 3 biswas of land owned by the respondents herein has been utilized whereas the remaining has been returned to them. It has also been pointed out that against the utilized area of 9 bigha 3 biswas, the respondents have been offered alternate land in terms of proviso to Section 101-A of the 2017 Act, vide notification dated 11.12.2018, therefore, they are not entitled for release of any compensation as determined by this Court in Regular First Appeal(s) and as such, the impugned orders are liable to be set aside.

[6.1] Learned State Counsel also refers to the notification dated 17.09.2021 issued by the Additional Chief Secretary to Govt. Haryana, Irrigation & Water Resources Department, to support that the respondents-landowners are not entitled for award of any compensation in their pending execution proceedings as the land already stood de-notified vide notification dated 11.12.2018, followed by offer of alternate land to them.

ON BEHALF OF THE RESPONDENTS-LANDOWNERS

[7] On the other hand, learned counsel for the respondents-landowners submits that once, 9 bigha 3 biswas of land owned by the respondents-landowners stood utilized in terms of notification dated 20.09.2004 issued under Section 4 of the 1894 Act; followed by enhancement awarded by this Court, the respondents-landowners became entitled to such award of compensation as they were not willing to accept the offer of alternate land as made by the petitioners-State of Haryana. He thus submits that no interference was called for in the impugned orders passed by the learned Executing Court, till the payment was released.

DISCUSSION AND REASONING

[8] After hearing learned counsel for the parties and having gone through the paper-book / record, I am unable to find substance in the submission(s) made on behalf of the petitioners-State of Haryana.

[9] Apparently, the submission(s) made by the petitioners are misconceived, as after having utilized the land owned by the respondents-landowners for the past almost 21 years, they have been made to run from pillar to post for the release of their dues towards compensation (enhanced compensation) in terms of the provisions of the 1894 Act, which primarily flow from Article 300-A of the Constitution of India. The petitioners-State of Haryana have not been able to deny or dispute the factum of utilization of 9 bighas 3 biswas of land owned by the respondents which stood acquired vide notification dated 20.09.2004 issued under Section 4 of the 1894 Act. The only plea raised by the petitioners is that in terms of Section 101-A of the 2017 Act, the remaining land stands released, and against the utilized parcel of 9 bigha 3 biswas of land, the respondents-landowners have been offered alternate land in terms of the proviso to Section 101-A of the 2017 Act. Before proceeding further in this regard, it may be relevant to take note of the Section 101-A of the 2017 Act, which is extracted hereunder:-

> *" 5. Insertion of section 101A in Central Act 30 of 2013. - After section 101 of the principal Act, the following section shall be inserted, namely:-*
> ***"101A.*** *Power to denotify land. - When any public purpose, for which the land acquired under the Land Acquisition Act, 1894 (Central Act 1 of 1894) becomes unviable or non-essential, the State Government shall be at liberty to*

> *denotify such land, on such terms,* ***as considered expedient by the State Government, including the payment of compensation on account of damages****, if any, sustained by the land owner due to such acquisition:*
>
> ***Provided*** *that where a part of the acquired land has been utilized or any encumbrances have been created,* ***the landowner may be compensated by providing alternative land alongwith payment of damages****, if any, as determined by the State Government."*

[9.1] A perusal of Section 101-A of the 2017 Act shows that the same nowhere starts with the '*non-obstante*' clause so as to over-ride the provisions of the 2013 Act or any other statute or law applicable and in force for the time being. The language used in the section further makes it clear that the legislature was conscious of the situation that there may be case where the entire acquired land is not de-notified and a part of it stands utilized, as has happened in the present case. Meaning thereby, that the said provision under the 2013 Act needs to be harmoniously construed so that it does not affect or curtail the rights of the landowners under the main enactment which makes the landowner entitled for award of compensation including the market value, solatium and other statutory benefits / interest payable against the acquisition of land. Further, the plain and simple meaning of the term '*compensation*' used in the main provision of Section 101-A is to the damages towards de-notification of land for the reason it becomes unviable or non-essential. The legislature in its wisdom has used the term "including the payment of compensation on account of damages", which clearly means that the "compensation on account of damages" against de-notification of unutilized land is in addition to the market value and the other statutory benefits payable under the other provisions of the 2013 Act and not as a substitute to the same.

Thus, in such circumstances, the term used in the proviso as "the landowner may be compensated by providing alternative land along with payment of damages" cannot be in any manner interpreted to give different or distinct meaning to the main statutory provisions thereby over-riding the effect of the other statutory provision under the enactment i.e. the 2013 Act.

[9.2] Moreover, the proviso has to be read in context with the main provision only. The Hon'ble Apex Court in its decision titled ***Mavilayi Service Cooperative Bank Ltd. v. Commissioner of Income Tax*** reported as ***2021 INSC 17*** has held that proviso cannot be used to cut down the language of the main enactment where such language is clear, or to exclude by implication what the main enactment clearly states. The relevant portion of the aforesaid judgment is extracted hereunder:-

> *"**41.** A number of judgments have held that a proviso cannot be used to cut down the language of the main enactment where such language is clear, or to exclude by implication what the main enactment clearly states. Thus, in CIT, Mysore v. Indo Mercantile Bank 1959 Supp. (2) SCR 256, this Court held:*
> *"The proper function of a proviso is that it qualifies the generality of the main enactment by providing an exception and taking out as it were, from the main enactment, a portion which, but for the proviso would fall within the main enactment. Ordinarily it is foreign to the proper function of a proviso to read it as providing something by way of an addendum or dealing with a subject which is foreign to the main enactment. "It is a fundamental rule of construction that a proviso must be considered with relation to the principal matter to which it stands as a proviso". Therefore it is to be construed*

harmoniously with the main enactment. (Per Das, C.J.) in Abdul Jabar Butt v. State of Jammu & Kashmir [(1957) SCR 51, 59]. Bhagwati, J., in Ram Narain Sons Ltd. v. Assistant Commissioner of Sales Tax [(1955) 2 SCR 483, 493] said:

"It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted as a proviso and to no other."

Lord Macmillan in Madras & Southern Maharashtra Railway Co. v. Bezwada Municipality [(1944) LR 71 IA 113, 122] laid down the sphere of a proviso as follows:

"The proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is confined to that case. Where, as in the present case, the language of the main enactment is clear and unambiguous, a proviso can have no repercussion on the interpretation of the main enactment, so as to exclude from it by implication what clearly falls within its express terms."

The territory of a proviso therefore is to carve out an exception to the main enactment and exclude something which otherwise would have been within the section. It has to operate in the same field and if the language of the main enactment is clear it cannot be used for the purpose of interpreting the main enactment or to exclude by implication what the enactment clearly says unless the words of the proviso are such that that is its necessary effect. (Vide also Corporation of City of Toronto v. Attorney-General for Canada [(1946) AC 32, 37]."

(at page 266-267)

42. *To similar effect, a two-Judge Bench of this Court in Tribhovandas Haribhai Tamboli v. Gujarat Revenue Tribunal (1991) 3 SCC 442 held:*

"6. It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field, which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted by the proviso and to no other. The proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the

main enactment, and its effect is to confine to that case. Where the language of the main enactment is explicit and unambiguous, the proviso can have no repercussion on the interpretation of the main enactment, so as to exclude from it, by implication what clearly falls within its express terms. The scope of the proviso, therefore, is to carve out an exception to the main enactment and it excludes something which otherwise would have been within the rule. It has to operate in the same field and if the language of the main enactment is clear, the proviso cannot be torn apart from the main enactment nor can it be used to nullify by implication what the enactment clearly says nor set at naught the real object of the main enactment, unless the words of the proviso are such that it is its necessary effect."

43. *Another two-Judge Bench in J.K. Industries Ltd. v. Chief Inspector of Factories and Boilers (1996) 6 SCC 665 then declared:*

"33. A proviso to a provision in a statute has several functions and while interpreting a provision of the statute, the court is required to carefully scrutinise and find out the real object of the proviso appended to that provision. It is not a proper rule of interpretation of a proviso that the enacting part or the main part of the section be construed first without reference to the proviso and if the same is found to be ambiguous only then recourse may be had to examine the proviso as has been canvassed before us. On the other hand an accepted rule of interpretation is that a section and the proviso thereto must be construed as a whole, each portion throwing light, if need be, on the rest. A proviso is normally used to remove special cases from the general enactment and provide for them specially.

34. A proviso qualifies the generality of the main enactment by providing an exception and taking out from the main provision, a portion, which, but for the proviso would be a part of the main provision. A proviso must, therefore, be considered in relation to the principal matter to which it stands as a proviso. A proviso should not be read as if providing something by way of addition to the main provision which is foreign to the main provision itself.

35. Indeed, in some cases, a proviso, may be an exception to the main provision though it cannot be inconsistent with what is expressed in the main provision and if it is so, it would be ultra vires *of the main provision and struck down. As a general rule in construing an enactment containing a proviso, it is proper to construe the provisions together without making either of them redundant or otiose. Even where the enacting part is clear, it is desirable to make an effort to give meaning to the proviso with a view to justify its necessity.*

36. While dealing with proper function of a proviso, this Court in CIT v. Indo Mercantile Bank Ltd. [AIR 1959 Supreme Court 713: (1959) 36 ITR 1] opined:

"The proper function of a proviso is that it qualifies the generality of the main enactment by providing an exception and taking out as it were, from the main enactment, a portion which, but for the proviso would fall within the main enactment. Ordinarily it is foreign to the proper function of a proviso to read it as providing something by way of an addendum or dealing with a subject which is foreign to the main enactment."

This view has held the field till date."

44. *More recently, in Union of India v. Dileep Kumar Singh (2015) 4 SCC 421, this Court held as follows:*

"20. Equally, it is settled law that a proviso does not travel beyond the provision to which it is a proviso. Therefore, the golden rule is to read the whole section, inclusive of the proviso, in such manner that they mutually throw light on each other and result in a harmonious construction. This is laid down in Dwarka Prasad v. Dwarka Das Saraf [(1976) 1 SCC 128], as follows:

"18. ***We may mention in fairness*** *to counsel that the following, among other decisions, were cited at the Bar bearing on the uses of provisos in statutes: CIT v. Indo- Mercantile Bank Ltd. [AIR 1959 Supreme Court 713]; Ram Narain Sons Ltd. v. CST [AIR 1955 Supreme Court 765]; Thompson v. Dibdin [1912 AC 533], AC p. 541; R. v. Dibdin [1910 P 57 (CA)], and Tahsildar Singh v. State of U.P. [AIR 1959 Supreme Court 1012]. The law is trite. A proviso must be limited to the subject-matter of the enacting clause. It is a settled rule of construction that a proviso must prima facie be read and considered in relation to the principal matter to which it is a proviso. It is not a separate or independent enactment. `Words are dependent on the principal enacting words to which they are tacked*

> *as a proviso. They cannot be read as divorced from their context' (Thompson v. Dibdin [1912 AC 533]). If the rule of construction is that prima facie a proviso should be limited in its operation to the subject-matter of the enacting clause, the stand we have taken is sound. To expand the enacting clause, inflated by the proviso, sins against the fundamental rule of construction that a proviso must be considered in relation to the principal matter to which it stands as a proviso. A proviso ordinarily is but a proviso, although the golden rule is to read the whole section, inclusive of the proviso, in such manner that they mutually throw light on each other and result in a harmonious construction."*

[9.3] The main provision of Section 101-A of the 2017 Act talks about empowering the State to de-notify the acquired land in case the same becomes unviable or non-essential and while doing so, State Government may also assess compensation on account of damages, if any, sustained by the landowner due to such de-notification. Thus, the main provision only talks about compensation on account of damages suffered by the landowner as an effect of de-notification. It nowhere talks about award of compensation against the notified land which stood utilized and thus, the proviso has to be read within the limited sphere and scope dealt with by the main provision of Section 101A of the 2017 Act. Further, the argument by the State is contrary to the rules of interpretation that the statutory provisions are to be read as they exist. Relocation of a proviso by the interpretive process, resulting in its placement at a different place is a drastic judicial measure and such an exercise may amount to encroaching upon the legislative field.

[9.4] As discussed above, a plain reading of the complete provision makes it clear that the term "compensation" has merely been used in context with the damages payable to the landowner in case of de-notification qua his non-utilized or unviable land and not towards the benefit of market value against the utilized component of acquired land and hence, the compensation provided as an alternative land cannot be substituted by any legislative mandate against the market value of the utilized land in contradiction and conflict with the other statutory provisions under the said enactment.

[9.5] Be that as it may, the words by the Legislature in the proviso that "the Landowner may be compensated by providing alternative land alongwith payment of damages, if any," merely enable the State Government to offer alternative land, however, it nowhere obligates the landowners to accept the same against his wishes.

[10] In such circumstances, the stand taken by the petitioners-State of Haryana based on the notifications dated 11.12.2018 and 17.09.2021 is wholly misplaced. Even assuming arguendo, since the respondents-landowners are not ready and willing to accept the offer made by the petitioners-State with respect to the alternate land against the utilization of their 9 bighas 3 biswas of land, they cannot, by any stretch of imagination, be compelled to accept the said offer and thereby, cannot be deprived of their rightful statutory claim towards compensation, including the enhanced compensation awarded by the Court against the market value of the acquired land. Consequently, finding the action of petitioners to be in complete contradiction to the statutory mandate of Section 101-A of the 2017 Act, no interference is called for with the impugned orders passed by the learned Executing Court.

[11] In view of the aforesaid discussion, the present petition being devoid of merits, is hereby **dismissed** with costs of Rs. 1 lakh to be paid to the respondents-landowners, who have been waiting for their dues towards compensation, including the enhanced compensation, for the last almost 21 years despite their land having been utilized by the petitioners. The costs shall be paid in favour of respondents-landowners within one month from the date of receipt of certified copy of this order, failing which, the salary of the Secretary of the Department concerned be attached to the aforesaid extent, and the amount be released immediately in favour of the respondents-landowners for the delay in disbursal of their dues.

[12] The learned Executing Court is also directed to conclude the proceedings within a period of three months from the date of receipt of certified copy of this order.

[13] Pending miscellaneous application(s), if any, shall also stand disposed off.

December 03, 2025 **(HARKESH MANUJA)**
'dk kamra' **JUDGE**

Whether Speaking/reasoned	*Yes*
Whether Reportable	*Yes*