BEFORE THE LAND ACQUISITION COLLECTOR- CUM- DRO , GURUGRAM

Application no. of 2019

1. Vijay son of Ram Singh s/o Khem Chand

2. Devender Kumar

3. Sunder sons of Baljeet s/o Khem Chand

All resident of Village Garauli Kalan, Tehsil & Distt. Gurugram --------------- Applicants/Petitioners

VERSUS

1. State of Haryana , through its collector, Gurugram

2. Managing Director, HSIDC, Haryana, Panchkula.

3. The Land Acquisition Collector-cum- DRO – GGR.

--------------- Respondents

**Application under Section 28-A (3) of the Land Acquisition Act-1894**

Respectfully Showeth :-

**1. The** briefly the facts of the case are that State of Haryana vide Notification 29.1.2003 ,issued under Section 4 of the land acquisition Act,1894 sought to acquire land measuring 1779.40 acres ,situated in village Khandsa,Narsinghpur ,Mohammadpur Jharsa ,Harsaru and Garauli Khurd Tehsil & District. Gurugram for setting-up of Industrial Complex to be planned and developed as special economic Zone (SEZ) Phase –I . The land Acquisition Collector (LAC) vide award dated 27.1.2006 ,assessed the market value of the acquired land @Rs. 15 lakhs per acre for the land pertaining to revenue estates of village Khandsa and Narsingpur **@ Rs. 12.50,000/- per acre** for the land pertaining to revenue estates of village Harsaru,Mohammadpur Jharsa and **Garauli Khurd**. Aggrieved against the awards of the Collector ,the land owners filed objections which were referred to the ld. Distt.Court /Reference Court ,who keeping in view the material placed on record by the parties vide judgment/order dated 17.5.2012 ,assessed the market value of the acquired land @Rs. 40.95,000/-per acre for the land pertaining to revenue estate of villages Khandsa and Narsingpur. Vide another award , the ld. Reference Court assessed the market value of the acquire land **@Rs. 31,50,000/-** per acre for the land pertaining to revenue estate of villages Harsaru,Mohammadpur Jharsa and **Garauli -Khurd**. The aforesaid awards have been impugned by the land owners before the Hon’ble High Court at Chandigarh . Hon’ble High Court allowed the appeals on dated 23.9.2014 filed by the land owners and Hon’ble High Court further enhanced the compensation @ Rs. 57.80,000/- per acre for the land pertaining to revenue estate of villages Khandsa , Narsingpur and Mohammadpur Jharsa and **Rs,. 40,80,000/- per acre** for the land pertaining to revenue estate of villages Harsaru and **Garauli –Khurd** to all statutory benefits.

**2. That** at the time of acquisition of land in question, applicants were owners/co-sharers with Ram Nath in joint khewat and they were in possession of the land bearing khasra no. 415, Khata no. 478 ,Rect. No.36, killa no. 1 (7-14) and killa no. 10(8-0) .Petitioner no.2 and 3 are the LR.s of Baljeet Singh , the original co-sharer, so they will step into his shoes. A copy of statement no .19 of LA Act to this effect is attached herewith as **Annexure A-1.**

**3. That** after passed the award of the land Acquisition Collector than some of the aggrieved land owners filed the references under section 18 before the Ld. Distt. Court Gurugram . LR,s of Ram Nath who was also co-share in the joint Khewat with the applicants also filed the reference petition . Ld. Reference Court enhanced the condensation from Rs. 12,50,000/- per acre to 31,50,000/- per acre of the revenue estate village Garauli –Khurd . A copy of order dated 17.5.2012 passed by the Ld. Reference Court to this effect is attached herewith as **Annexure P-2.**

**3 That** after decided the references by the Ld. Distt. Court, present petitioners/applicants without their having filed reference petition under section 18 and application under Section 28-A of the land acquisition Act,1894 filed the execution petition before the Ld. Addl. Distt. Judge Gurugram being co-sharers on the principal of parity with their co-shares . ld. Executing Court Gurugram allowed the said application being main table vide order dated 4.11.2014 and granted the same benefits which was granted to other co-shares . A copy of order dated 4.11.2014 passed by the Executing Court is attached herewith as **Annexure P-3.**

6. That some of landowners went into appeal against the award passed by the Ld. Additional District judge , Gurugram before the Hon’ble High Court ,the Hon’ble High Court accepted the appeals vide order 23.2.2014 filed by the landowners and further enhanced the compensation from Rs.31,50,000/- per acre to 40,80,000/- per acre of the revenue estate village Garauli –Khurd. A copy of order dated 23.9.2014 passed by the Hon’ble High Court is attached herewith as **Annexure P-4.**

Than petitioners/applicants also filed the first appeal before Hon’ble High Court vide RFA no.2260 of 2017 for further enhancement of compensation of their acquired land against the order of the executing court but Hon’ble high Court dismissed as withdrawn the said appeal being non maintainable vide order dated 10.10.2017 and directed to the appellants to avail the appropriate remedy. In this regard a copy of order dated 10.10.2017 passed by the Hon’ble High Court is attached herewith as **Annexure P-5.**

**That now the applicants is filing the application under Section 28-A (3) of land Acquisition Act -1894.**

1. Firstly The text of **section 28-A (3) .It reads as follows:-**

**(3) “Any person who has not accepted the award under sub-section (2) may, by written application to the Collector ,require that the matter be referred by the Collector for the determination of the Court and the provisions of Section 18 to 28 shall , so far as may be ,apply to such reference as they apply to a reference under Section 18.”**

In this way a bare reading of sub section (3) of Section 28-A would indicate that applicants have been given a right under sub section 3 to make a written application to the collector to refer the matter for determination under section 18 to the Court.

The above reproduced provision represents the Legislature’s determination to ensure that the goal of equality enshrined in the preamble of the Constitution and Articles 38 , 39 and 46 thereof is translated in to reality, at least in the matter of payment of compensation to those who are deprived of their land for the benefit of the state , its instrumentalities /agencies and even private persons . Section 28-A 1 t0 3 also represents statutory embodiment of the doctrine of equality in matters relating to the acquisition of land . the scheme of section 28-A 1 to 3 provide some solace to this segment of the society by ensuring that such of the land owners whose land was acquired under the same Notification but who could not, on account of poverty ,ignorance and others disabilities join others in seeking reference under section 18 get an opportunity to claim compensation at par with others.

**2.. That** the applicants who are the decree holders being co-sharers in the acquired land , because of having been unaware of the intricacies of law and being illiterate , they could not filed reference petition under section 18 of the Act, which their co-sharers filed and succeeded in getting enhanced compensation from the Distt. Court as well as from the Hon’ble High Court in appeal.

**3. That** it is correct that petitioners could not filed the references before the Reference Court under section 18 within time due to varied reasons including poverty , ignorance and other disabilities but is it settled proposition of law that in case of acquisition of land parity has to be maintained . As others land owners have been paid higher compensation as stated in above paras of the said application than petitioners also deserve to be granted the same relief from Rs. 12,50,00/- per acre to Rs.40,80,000/- per acre i.e up to the order of the Hon ble, High Court.

**4. That** if compensation is further enhanced of the acquired land by the above notification under section 4 of the Land Acquisition Act then the petitioners shall be entitled to finally enhanced compensation by the Hon’ble Supreme Court of India .

**Prayer**

It is, respectfully, prayed that the present application/ petition under section 28\_A (3) of Land Acquisition Act -1894 of the applicants may kindly be allowed and the matter be referred for the determination to the Civil Court/Reference Court under section 18 of the Land Acquisition Act,1894 in the interest of justice, equity and fair play.

Place:-

Dated:-5.3.2019 Advocate

Counsel for the Applicants/petitioners

BEFORE THE LAND ACQUISITION COLLECTOR- CUM- DRO

GURUGRAM

Application No. of 2019

Under Land Acquisition Act.1894 (S.28-A (3)

Vijay and others -------------- Applicants

Versus

State of Haryana and others --------------- Respondents

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| CHANDIGARH ( )    DATED :5.3.2019 Advocate  Counsel for the Applicants | | | | |