

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15403-2016

Date of Decision: September 20, 2016

Harbhajan Singh @ Bhajan Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.Jagjit Singh, Advocate
for the petitioners.

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SURYA KANT, J.

[1] This writ petition is the third attempt made by petitioners to seek enhancement of compensation of their acquired land at par with the compensation amount awarded to other land owners. The appellants have unfortunately lost the remedy under Land Acquisition Act, 1894 (For short, 'the 1894 Act') upto the Hon'ble Supreme Court as is explained hereinafter. The question which arises for consideration is whether they can still be allowed to re-agitate the same issue through these writ proceedings?

The admitted facts are that land of the petitioners was part of a big chunk of land acquired by State of Punjab for Punjab Mandi Board. The acquisition was made in the year 1983-84. The petitioners were dis-satisfied with the compensation assessed by the Collector hence filed Reference under Section 18 of the 1894 Act. Still dis-satisfied they approached this Court by way of Regular First Appeal. A bunch of such appeals including RFA No.885 of 1988 was allowed vide judgment dated 05.11.1992 (Annexures

P1). Still aggrieved, but as an afterthought, the petitioners filed intra-Court appeal (which was maintainable at the relevant time) i.e. LPA No.199 of 2006. The said appeal was dismissed by a Division Bench of this Court on 20.04.2012 (Annexure P3) being barred by limitation as there was a delay of 3733 days in filing the appeal and 2444 days in re-filing. Aggrieved petitioners went to the Hon'ble Supreme Court but their SLP was also dismissed on 06.05.2015 as there was an inordinate delay of 1217 days.

[2] Meanwhile, Letters Patent Appeals of some other land owners who had filed the same within time were allowed by this Court on 18.02.2014 (lead case LPA No.315-1993, Balwinder Singh vs State of Punjab and another) (Annexure P2).

[3] Against the above-stated judgment of LPA Bench, Punjab Mandi Board has preferred SLP which is pending before the Hon'ble Supreme Court. The petitioners through this writ petition now seek same amount of compensation as has been awarded by the Division Bench to other land owners vide judgment dated 18.02.2014 (supra).

[4] In our considered view, once the appellants have lost their remedy under the Statute as their LPA as well as SLP were dismissed being barred by limitation, the writ jurisdiction cannot be invoked for grant of same relief. The principle of '*constructive res judicata*' would be clearly attracted. The reliance placed by petitioners on a decision of the Hon'ble Supreme Court in Samiyathal and others vs Spl.Tahsildar and others 2015(2) RCR (Civil) 441 also does not come to their rescue as that was a case where the Hon'ble Supreme Court issued directions for payment of same amount of compensation to other land owners, by expressly invoking its powers under

Article 142 of the Constitution. It is so recited in para 12 of the judgment, which reads as under:-

“12. We further direct the respondents and the State of Tamil Nadu to pay the same amount of compensation to other landowners whose land was acquired by notification dated 22.05.1991, but who may have on account of ignorance, poverty and other similar handicaps, not been able to approach the Reference Court or may not have been able to contest the matter before the High Court and this Court. The needful be done in respect of other landowners within a period of six months. This direction has been given in exercise of the power vested in this Court under Article 142 of the Constitution.” [Emphasis applied]

[5] The High Court does not possess power parallel to Article 142 of the Constitution. We, thus, cannot follow the cited precedent and grant the same amount of higher compensation to the petitioners.

[6] Dismissed.

(SURYA KANT)
JUDGE

September 20, 2016
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(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No