

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP-27633-2013 (O&M)
Date of Decision: August 31, 2016

Gurudwara Sahib Ji

.....Petitioner

Versus

State of Punjab and others

.....Respondents

2. CWP-27646-2013 (O&M)

Mandir Thakurdawara Dhaula Patti

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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

Present: Mr.P.S.Dhaliwal, Advocate
for the petitioners.

Mr.P.S.Bajwa, Addl.AG, Punjab.

Mr.Vikas Suri, Advocate with
Mr.Nitin Kaushal, Advocate
for respondent No.4.

.....

SURYA KANT, J.

[1] This order shall dispose of CWP Nos.27633 of 2013 and 27646 of 2013 as the impugned orders, in both the petitions, though are separate but have been passed on the same date and on the same terms and conditions.

For brevity the facts are being extracted from CWP No.27633 of 2013.

[2] The petitioner has laid challenge to the order dated 05.10.2011 (Annexure P4 in both the petitions) passed by the Land Acquisition Collector, Department of Industries and Commerce, Punjab, whereby its reference under Section 28-A of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') has been dismissed being barred by limitation as well as not maintainable.

[3] The land of the petitioners (12 Kanal 0 Marla in CWP No.27633 of 2013 and 51 Kanal and 12 Marlas in CWP No.27646 of 2013) was acquired for establishment of an industry by a private company and the award was announced on 17.02.2006. The petitioner filed reference under Section 18 but withdrew the same with liberty to file a petition under Section 28-A of the 1894 Act. The reference filed by other land owners was decided by the Court of learned Additional District Judge on 25.03.2008. Thereafter the petitioner admittedly filed the petition under Section 28-A of the 1894 Act on 19.12.2009.

[4] The question that arose for consideration of the Land Acquisition Collector was thus whether petition under Section 28-A of the 1894 Act filed by the petitioner could be entertained though it was filed after a period of three months from the date of the award?

[5] The law is well settled and has been restated by the Hon'ble Supreme Court in **Popat Bahiru Govardhane and others vs Special Land Acquisition Officer**, (2013) 10 Supreme Court Cases 765 holding that the Land Acquisition Collector does not have any power under Section 28-A to

condone the delay or extend the limitation for filing claim petition. It has been held that in the absence of power of condonation of delay, if a petition under Section 28-A is filed after expiry of three months, the same cannot be entertained.

[6] In this view of the matter, there can be no escape but to hold that the rejection of the petitioner's petition under Section 28-A of the 1894 Act cannot be faulted with.

[7] Reliance placed by the petitioner on a decision dated 16.09.2013 of this Court in CWP No.1113 of 2012 (**Mohinder Singh vs State of Punjab and others**) also does not advance its case, for that was a case where the writ petitioner, a private company and the State of Punjab through its Land Acquisition Collector entered into Tripartite Agreement and in terms thereof the writ petition was disposed of.

[8] For the reasons afore-stated, we do not find any merit in both the petitions.

[9] Dismissed.

(SURYA KANT)
JUDGE

August 31, 2016
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(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No