

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 2432 of 1998 (O&M)
Date of decision : 2.2.2017

Ropar Improvement Trust, Ropar

.. Petitioner

versus

The Land Acquisition Collector and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. V. K. Kataria, Advocate, for the petitioner.
Mr. Naresh Kaushal, Advocate, for respondent nos. 3 and 4.

Rajesh Bindal, J.

Challenge in the present petition filed by the Ropar Improvement Trust, Ropar, is to the order dated 10.1.1994, passed by the Land Acquisition Collector (for short, 'the Collector') under Section 28-A of the Land Acquisition Act, 1894 (for short, 'the Act') and the order dated 18.1.1997 passed by the District Judge, Rupnagar.

In the case in hand, the land was acquired under the provisions of Punjab Town Improvement Act, 1922 (for short, 'the 1922 Act'). The notifications under Sections 36 and 42 of the 1922 Act, were issued on 21.8.1973 and 17.12.1974, respectively. The Collector announced the award on 1.5.1976. The aggrieved landowners sought reference. The District Judge determined the compensation vide award dated 31.1.1987. The landowners being still aggrieved filed CWP No. 11652 of 1988 – Desh Paul Lamba vs State of Punjab and others, in this Court, which was decided on 18.12.1991.

It was thereafter that respondent nos. 3 and 4 filed application on 7.4.1992

under Section 28-A of the Act, before the Collector seeking re-determination of compensation. The Collector accepted the application and vide order dated 10.1.1994 awarded compensation in terms of judgment of this Court in Desh Paul Lamba's case (supra), to respondent nos.3 and 4.

Aggrieved against the order passed by the Collector, the Improvement Trust filed application under Section 28(3) of the Act for referring the dispute to the Court. As the application was beyond the period prescribed under Section 28-A of the Act, the same was dismissed.

While placing reliance upon a judgment of Hon'ble the Supreme Court in State of Punjab vs Raghbir Singh and others 1995 Supp (2) SCC 679, the only contention raised by learned counsel for the petitioner was that the Collector could not have entertained the application under Section 28-A of the Act on the basis of judgment of this Court, as it could be filed only on the basis of an award of the Reference Court. Hence, the application filed beyond the period of limitation deserved to be rejected.

On the other hand, learned counsel for respondent nos. 3 and 4 submitted that from the judgment of this Court, the application filed by respondent nos.3 and 4 was within limitation. All what the landowners have sought is the parity in payment of compensation, which is the object of Section 28-A of the Act as well. Their land having been acquired, they should not be discriminated in payment of compensation.

Heard learned counsel for the parties and perused the paper book.

Undisputed fact, as has been noticed by the Collector in the order passed on the application filed by respondent nos. 3 and 4, under Section 28-A of the Act, is that the application was filed on 7.4.1992, while

placing reliance upon the judgment of this Court in Desh Paul Lamba's case (supra), which was delivered on 18.12.1991.

The legal objection raised by the petitioner that the application was time barred, was rejected. Respondent nos. 3 and 4 were found entitled to compensation payable in terms of judgment of this Court in Desh Paul Lamba's case (supra). Even the reference sought by the petitioner under Section 28(3) of the Act has also been answered against the petitioner opining that the application filed was within limitation.

The legal issue regarding right of the landowners to file application under Section 28A of the Act, is well settled. It has been opined that such an application can be filed within the time provided for under Section 28(A)(1) of the Act from the award passed under Section 18 of the Act and not the Appellate Court. In the case in hand, as there is no appeal provided against the determination of compensation by the Land Acquisition Tribunal under the 1922 Act, the writ petitions are entertained for determination of the value of the acquired land.

Keeping in view the settled position of law and the facts of the case in hand, it can safely be opined that the application filed by the landowners was beyond the period of limitation as the same was filed relying upon judgment of this Court for determination of compensation and not the award of the Reference Court, which in the present case would be the District Judge. Once the application filed by the landowners under Section 28A of the Act was beyond limitation, in our opinion, the Collector as well as the learned Court below have committed error in law in entertaining the same and awarding compensation to the landowners.

For the reasons mentioned above, the writ petition is allowed.

Order of the Collector dated 10.1.1994 and award of the District Judge dated 18.1.1997, are set aside.

(Rajesh Bindal)
Judge

2.2.2017
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/ reasoned
Whether Reportable

Yes/No
Yes/No