

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

**IOIN-RFA-1118-1997 (O&M)
Date of Decision : 03.04.2017.**

Ram Sarum Dass

.....Appellant

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Rakesh Nagpal, Advocate for the appellant.

Mr. Shivendra Swaroop, AAG, Haryana.

ARUN PALLI, J. (Oral)

Concededly, the present appeal has been preferred against an award rendered by the Collector under Section 28-A of the Land Acquisition Act, 1894, and thus, is not maintainable under Section 54 of the Act. If the appellant was/is aggrieved against an award rendered by the Collector, dated 27.06.1996, he was required to resort to the provisions of Section 28-A (3) of the Act. Faced with this situation, learned counsel for the appellant relies upon an order and judgment of this court dated 1.7.2015, in RFA No.6990 of 2013 (Om Pal Vs. State of Haryana and others) and submits that he be permitted to withdraw the appeal with liberty to approach the Collector under Section 28-A (3) of the Act. It would be apposite to refer to paragraphs 16 to 21, of the decision of this Court in the case of Om Pal (supra) reads thus:-

16. “The aforesaid provisions make it crystal clear that an appeal to this court lies only against the award or a part of the award passed by the court and not the Collector. In the present set of appeals, the landowners have filed the same impugning the award of the Collector passed under Section 28A(2) of the Act, which is not appealable under Section 54

of the Act. In fact, the remedy against the same has been clearly provided in Section 28A(3) of the Act.

17. The contention of learned counsel for the landowners that going to the Reference Court would be an exercise in futile as the Collector had already awarded the compensation on the basis of the award of the Reference Court is merely to be noticed and rejected. Once a specific procedure has been provided, the same deserved to be followed. Remedy of appeal is a creation of statute, unless it is specifically provided that the order/award cannot be impugned before the Court. Reference can be made to the judgments of Hon'ble the Supreme Court in Indira Nehru Gandhi (Smt.) v. Raj Narain and another, (1975) 2 SCC 159 and Shiv Shakti Coop. Housing Society, Nagpur v. M/s Swaraj Developers and others, AIR 2003 SC 2434.

18. In CR No. 4225 of 2014—Dalbir Singh and another v. State of Punjab and others, decided on 25.5.2015, this court opined that a revision against the award of the Collector under Section 28A of the Act is not maintainable.

FINDINGS

19. Accordingly, the question is answered in terms that against an award of the Collector passed under Section 28A of the Act, appeal is not maintainable before this court as the remedy against the same is available under Section 28A(3) of the Act by filing an application to the Collector seeking reference of dispute to the Court.

20. As the landowners in the present case being ill-advised, instead of filing application to the Collector for referring the matter to the court for re-fixation of compensation, had approached this court taking a plea that other matters seeking enhancement of compensation are pending before this court, in my opinion, keeping in view the interest of the

landowners, they need to be given an opportunity to file applications before the Collector under Section 28A(3) of the Act within four weeks from today.

21. The appeals stand disposed of in the aforesaid terms”.

Learned State counsel does not oppose the course that is sought to be adhered to by the learned counsel for the appellant.

In the wake of the position as sketched out above, the appeal is disposed of in terms of the decision of this Court in the case of Om Pal (supra) and the appellant is granted an opportunity to file the necessary application before the Collector under Section 28-A(3) of the Act within six weeks from today.

03.04.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No