

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

CWP No. 23688 of 2016 (O&M)

Date of decision : 10.10.2017

M/s Model Economic Township Limited

.. Petitioner

versus

Land Acquisition Collector

.. Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Harman Jivtesh Singh, Advocate for the petitioner.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Rajesh Bindal, J.

The petitioner has filed the present petition praying for quashing or modification of the award dated 06.03.2014 (Annexure P5) passed by the respondent, whereby the application filed under Section 28A of the Land Acquisition Act, 1894 (for short, 'the Act'), was allowed.

In the case in hand, the land owned by the petitioner was acquired. Notifications under Sections 4 and 6 of the Act were issued on 19.05.2008 and 26.05.2008, respectively. Award was announced by the Land Acquisition Collector (for short, 'the Collector') on 21.12.2009. The petitioner did not file any objections. However, after the objections filed by some other landowners were decided by the Reference Court, the petitioner filed application under Section 28A of the Act before the Collector, who

vide award dated 6.3.2014, granted the petitioner same amount of compensation as was determined by the Reference Court in the case of other landowners. Being satisfied with the award, the petitioner did not avail any further remedy. The present petition was filed praying for setting aside or modification of the award passed by the Collector, referring to judgment of this Court in RFA No.1580 of 2012 decided on 24.5.2016 titled as Moti Sagar and others vs State of Haryana and another. It is prayed that amount of compensation having been further enhanced by this Court, the petitioner is also entitled to the same amount of compensation. The contention is that where award of the Reference Court was not final and the same was still pending consideration before the higher Court, the Collector should have stayed back his hands and kept the application filed by the petitioner pending. However, he decided the same which caused prejudice to the petitioner as the compensation was further enhanced by this Court. Hence, either the award be set aside and matter be remitted back to the Collector or the same may be modified in terms of the judgment of this Court in Moti Sagar's case (supra).

On the other hand, learned counsel for the State submitted that only remedy available with the petitioner in case it was not satisfied with the award passed by the Collector under Section 28A of the Act, was to file application under Section 28A(3) of the Act. The matter was not required to be kept pending by the Collector as the State was not in appeal. Hence, there was no error in the award passed by the Collector. The petitioner is a limited company and not an illiterate landowner. It could have availed the remedy as provided under the Act. The present writ petition is not maintainable.

Heard learned counsel for the parties and perused the record.

In the case in hand, it is not in dispute that after acquisition of land and announcement of award by the Collector, the petitioner did not file any objections. After objections filed by other landowners were decided by the Reference Court, the petitioner preferred application under Section 28A of the Act, which was decided by the Collector on 06.03.2014 and the amount of compensation as determined by the Reference Court was granted to the petitioner. Against the award of the Reference Court relied upon by the Collector, State was not aggrieved. It was only the landowners who were aggrieved. They filed appeals before this Court seeking enhancement of compensation. As per the record available, there were 40 appeals filed before this Court by the landowners, 39 of them were decided by a common judgment in Moti Sagar's case (supra), where compensation was further enhanced. Judgment was delivered on 24.05.2016.

Nearly six months thereafter the petitioner filed the present writ petition seeking same amount of compensation as was awarded to other landowners, who preferred appeals against the award of the Reference Court. The petitioner herein is a limited company. Once it could file application under Section 28A of the Act just within the time permitted under Section 28A of the Act after the award was announced by the Reference Court, it cannot be claimed that it was not knowing the status of other cases or the remedy against the award passed by the Collector on application under Section 28A of the Act. Section 28A(3) of the Act provides that in case either of the parties is aggrieved against the award passed by the Collector, it can file application for reference of the dispute to

the Court. The aforesaid remedy was not availed of by the petitioner. The period thereof expired long back.

There is no merit in the contention raised by the petitioner that the Collector should have kept the matter pending till such time other cases were finally decided by this Court or Hon'ble the Supreme Court. The State was not in appeal. The appeal had only been filed by the landowners seeking further enhancement of compensation. None of the parties had pointed out before the Collector that there was any appeal pending against the award of the Reference Court so as to enable him to consider that fact. In the absence thereof as well, no error can be found with the award of the Collector passed in an application filed by the petitioner under Section 28A of the Act.

For the reasons mentioned above, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

10.10.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No