

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-4437-2016 (O&M)
Date of Decision: August 18, 2017

Dharambir and others

...Appellants

Versus

State of Haryana and others

...Respondents

and other connected matters, i.e. RFA Nos. 3970 to 3972 and 4491 of 2016 (O&M).

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Arun Yadav, Advocate.
for the appellant(s).

Mr. Shivendra Swaroop, Assistant Advocate General, Haryana,
for respondent Nos. 1 and 2.

Mr. Vikas P. Singh, Advocate,
for respondent Nos. 3 and 4.

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of five appeals, four of which i.e. **RFA Nos. 3970 to 3972 and 4491 of 2016**, have been filed against a common award dated 21.03.2016, and **RFA No. 4437 of 2016** has been filed against an award dated 24.08.2015. For, all these appeals arise out of the same acquisition and the questions that arise for consideration are common, these are being disposed of by a common judgment. However, the facts are being culled out from **RFA No. 4437 of 2016 (Dharambir and others v. State of Haryana and others)**.

Vide notification dated 14.02.2008, issued under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act'), a land measuring

District Rewari, was sought to be acquired for construction of Marry Go Round (MGR) Railway Line for Arawli Power Company Pvt. Ltd. Jharli, District Jhajjar. Final declaration under Section 6 was published on the same day, i.e. 14.02.2008. Vide Award No. 1, dated 31.12.2008, the Land Acquisition Collector assessed the market value of the acquired land at Rs.16,00,000/- per acre. Being dissatisfied by the assessment as also the compensation awarded by the Collector, the co-landowners of the appellants filed objections under Section 18. Resultantly, the dispute was referred to the Court for determination of the true value of the acquired land. And, vide an award dated 16.12.2011, rendered in the case of **“Chandram and others v. State of Haryana and others” (LAC No. 43 of 2009)**, the Reference Court enhanced the compensation to Rs.18,00,000/- per acre, with all the statutory benefits, as admissible in law. It would be apposite to point out that the appellants never filed objections under Section 18 to the award rendered by the Collector. However, the case set out by them was that one Mahavir Singh, who too had not filed objections under Section 18, moved the authorities under Section 28-A of the Act for redetermination of compensation, and vide award, dated 25.10.2013, the Reference Court awarded him the same compensation as was granted to the co-landowners vide award dated 16.12.2011. Accordingly, it was prayed that the appellants be also granted enhancement in terms of the award, dated 25.10.2013. However, the Reference Court on a comprehensive analysis of the matter in issue, concluded that the application(s) moved by the applicants was hopelessly time barred. Consequently, their claim was dismissed. That is how, as indicated above, the claimant/landowners are in

appeals.

I have heard learned counsel for the appellants and perused the records.

For, the matter in issue would require a reference to the provisions of Section 28-A and its construction, it is being set out hereinafter:

“28-A. Re-determination of the amount of compensation on the basis of the award of the Court. — (1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to

28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.”

Ex facie, the provisions of Section 28-A are clear, unambiguous and incapable of any misconstruction. It envisage that if a Court awards an amount to the claimant/landowner in excess of the compensation awarded by the Collector under Section 11 of the Act, the co-landowners, who are also aggrieved by the award of the Collector, and whose land was also acquired vide a common notification under Section 4, can move the Collector, within a period of three months from the date of the award of the Court, for re-determination of compensation payable to them on the basis of the said award. Concededly, the appellants never filed objections under Section 18, to Award No. 1, dated 31.12.2008, rendered by the Collector. There is no dispute that in the land reference arising out of the same acquisition, i.e. **Chandram and others (supra)**, the Reference Court, vide an award dated 16.12.2011, had enhanced the compensation to Rs.18,00,000/- per acre,. Thus, apparently the application dated 19.12.2013, moved by the appellants under Section 28-A(1) of the Act, after over two years of the award dated 16.12.2011, was barred by time. As to the award, dated 25.10.2013, rendered by the Reference Court in the case of **Mahavir Singh (supra)**, under Section 28-A of the Act, suffice it to say that the provision i.e. Section 28-A, provides for re-determination of compensation on the basis of the award made by the Court under Section 18 and not under Section 28-A of the Act. While interpreting the provision of Section 28-A of the Act, the Supreme Court in **Jose Antonio Cruz Dos R. Rodriguese and another v. Land Acquisition Collector and another**, (1996) 6 SCC 746, had

determination of compensation must be computed from the date of the award of the Reference Court under Section 18 and not the order of the Appellate Court in appeal against the said award; ***“.....Therefore, the court referred to therein is again the court referred to in Section 2(d) of the Act, i.e., the principal civil court of original jurisdiction. The plain language of Section 28-A, therefore, prescribes the three months’ period of limitation to be reckoned from the date of the award by the Court disposing of the reference under Section 18, and not the appellate court dealing with the appeal against the award of the Reference Court.”***

Though, one wonders as to how the application under Section 28-A could at all be dealt with by the Reference Court for under the provision only Collector is empowered to re-determine the compensation. Be that as it may, the fact remains that even the award dated 25.10.2013 is inconsequential for it was not rendered under Section 18.

On being pointedly asked, learned counsel for the appellants could not point out as to how the conclusion arrived at by the Reference Court is either contrary to the record or suffered from any material illegality. Neither any other argument was advanced nor any precedent was cited to the contrary. That being so, the only and the inevitable conclusion that could be reached; that the applications moved by the appellants under Section 28-A of the Act, were indeed time barred and merited dismissal.

Thus, the appeals being devoid of merit are accordingly dismissed.

(ARUN PALLI)
JUDGE

August 18, 2017
P Kapoor

Whether Speaking/Reasoned:
Whether Reportable:

✓ YES / NO
✓ YES / NO