

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 22370 of 2017
Date of decision: 22.03.2018

Smt. Bhagwati Devi

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ajay Jain, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present writ petition has been filed under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of mandamus commanding upon the respondents to disburse the amount of compensation which had been awarded to other land owners whose land has been also acquired vide notification dated 14.11.2006.

The benefit is sought in view of the orders passed in ***RFA No. 48 of 2012, Harphool vs. State of Haryana and others*** decided on 19.02.2016 (Annexure P-1) whereby, the value was fixed at Rs.4,044/- per sq. yd. by this Court for 58.93 acres of land which had been acquired from village Gokalgarh, Tehsil and District Rewari for the development and utilization of land for the outer ring road/green belt.

The Collector had awarded a sum of Rs.12,50,000/- per acre vide award dated 29.03.2007. The other land owners had exercised their option and preferred petitions under Section 18 of the Land Acquisition Act, 1894 (in short 'the Act') before the Reference Court within the prescribed period of limitation and accordingly got benefits of enhancement to the tune

of Rs.20,00,000/- per acre which, as noticed, has been further been got enhanced by the vigilant owners to Rs.4,044/- per sq. yd. It is the case of Mr. Jain that the said amount has further been upheld till the Apex Court. It is in such circumstances, he seeks parity.

It is the case of the appellants that a petition under Section 30 was decided on 07.04.2010 by the Reference Court whereby, the issue of apportionment as such was settled between the share holders. Eventually on 15.10.2011 (Annexure P-4), the petitioner was impleaded in the execution proceedings as a beneficiary on the basis of a fact that she had sale deeds in her favour prior to the date of acquisition and, therefore, the amount of compensation was to be released in her favour as per the order of the Executing Court.

The writ petition thereafter has, thus, been filed on the basis of the order passed on 19.02.2016 (Annexure P-1). The Act provides a prescribed procedure whereby, the land owners are required to file references within a specified time frame from the date the award is passed. The Apex Court has already held that the petition under Section 18 of the Act which is barred by limitation the delay cannot be condoned by the Reference Court since limitation itself is prescribed in the Act itself.

The benefit has been given to those land owners who have not preferred a petition under Section 18 of the Act as such to take opportunity of the enhanced amount awarded by the Reference Court in cases of other land owners under Section 28-A of the Act. The limitation of three months is also prescribed under the said Section.

It is pertinent to notice that on 15.10.2011, the petitioner was well aware of her rights under Section 30 proceedings as she had been given

share in the execution proceedings qua the compensation which had been deposited by the Collector for the land acquired. The Reference Court had eventually decided the petition on 12.11.2011. At no stage, application under Section 28-A of the Act was preferred before the Land Acquisition Collector for enhancement of the amount to Rs.20,00,000/-. Thereafter the other land owners being dis-satisfied with the Reference Court award had approached this Court and got necessary enhancements.

The land owners having slept over their rights cannot be permitted to approach the Writ Court to get over the rigours of the limitation which are prescribed under the Act. This Court is of the opinion that by entertaining the present writ petition, it would be opening a pandora box whereby, the land owners would rush to this Court on the basis of parity and on the strength of invocation of Article 14 of the Constitution of India. The settled procedure prescribed under the Act would, thus, be disturbed and the discretionary relief which is to be exercised in cases under Articles 226 and 227 of the Constitution of India cannot be invoked where the Statute as such provides a specific bar as such.

Accordingly, finding no merit in the present writ petition, the same is dismissed in limine.

22.03.2018
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No