

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

**CWP No.25386 of 2018
Date of Decision:12.11.2018**

Umed Singh and others ...Petitioners

Versus

State of Haryana and others ...Respondents

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

Present: Mr. Naveen Kumar, Advocate
for the petitioners.

G.S. SANDHAWALIA, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India challenging the order dated 11.10.2017 (Annexure P-4) passed by respondent No.2 whereby application filed under Section 28-A of the Land Acquisition Act, 1894 (for short 'the Act') has been dismissed on the ground of limitation, as the same having not been filed within the prescribed period of 3 months.

In essence, the petitioners claim the enhanced compensation @ Rs.17,20,000/- per acre from @ Rs.16,00,000/- per acre, as granted by the Land Acquisition Collector vide his award dated 06.07.2009. The basis for enhancement of the award is that similarly situated landowners got the enhanced compensation vide award dated 26.05.2016 passed by the Reference Court, Rohtak under Section 18 of the Act.

Counsel for the petitioners has mainly attempted to argue that there is no reasoning given as such as to how the application was barred by limitation.

A perusal of the application dated 28.09.2016 (Annexure P-2)

under Section 28-A filed by the petitioners themselves would go on to show that in paragraph No.5 it had been mentioned that date of knowledge was after three months, on 23.09.2016 when the certified copy of the statement No.19 from case No.674 dated 12.08.2011 titled as Prem Singh etc. Vs. State of Haryana and others was obtained. In such circumstances, it does not lie in the mouth of the counsel to submit that there is no such reasoning in the impugned order once there is an admission by the petitioners themselves that it was beyond the period of 3 months. In the preliminary objections of the written statement filed (Annexure P-3) also, it was mentioned that the petition was barred by limitation.

This Court does not propose to deal with the order impugned on merits, since the petitioners have an alternative and efficacious remedy available under Section 28A(3) of the Act. The same is reproduced as under:

“28A. Re-determination of the amount of compensation on the basis of the award of the Court.

(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.”

The Apex Court in **United Bank of India Vs. Satyawati Tondon and others, 2010 (8) SCC 110** has noticed the principles of alternative remedy. It was observed that it was a self imposed restraint and the alternative remedy was a rule of discretion and not one of compulsion. The relevant observations read as under:-

“44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the

Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.”

Faced with this situation, counsel for the petitioners does not press the present writ petition and prays for liberty to approach the competent authorities for the redressal of petitioners' grievances, in accordance with law.

Ordered accordingly.

(G.S. SANDHAWALIA)
JUDGE

12.11.2018
pvd

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No