

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.26790 of 2018 (O&M)

Date of Decision: 21.11.2018

Bharto Devi

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

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

Present: Mr. Vikrant Hooda, Advocate for the petitioner

G.S. SANDHAWALIA, J. (Oral)

CM-17350-CWP-2018

Allowed as prayed for.

Document (P5) is taken on record subject to all just exceptions.

CM stands disposed of.

Main case

The petitioner challenges the order dated 05.09.2017 (P4) whereby his application under Section 28A of the Land Acquisition Act, 1894 has been dismissed on the ground of limitation.

Mr. Hooda has sought to contend that as per notice dated 25.08.2017 (P5) issued by the Land Acquisition Officer, Rohtak, it is evident that the application was filed on 11.03.2014 on the basis of the award of the Reference Court dated 30.08.2013 whereby market value had been determined at ₹ 9,86,114/- per acre for the land which had been acquired vide notification under Section 4 dated 17.04.2002. As such the same would be within limitation in as much as because it is submitted that there was a dispute as such *re*: title of the land as such and which was pending in Civil Appeal No.7 of 2011 titled as "Smt. Bharto Devi vs. Director of Land Acquisition Department etc." decided on 31.05.2011 and the benefits of the acquisition were only made

on 25.01.2014 vide cheque dated 09.01.2014 of ₹ 1,25,986/-. It was only on payment of the same that the application under Section 28-A had been filed and therefore the application was within limitation even as per the case of the respondents (P5) as the application was dated 11.03.2014. It is accordingly submitted that in the impugned order, reference to the application being filed on 13.10.2016 is wrongly made.

Admittedly under Section 28-A(3) of the Act, the petitioner has got an alternative efficacious remedy as he can get the matter referred to the Reference Court against the application having not been accepted. Section 28-A(3) of the Act reads as under:-

“(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.”

Faced with this situation, counsel submits that he may be permitted to avail the alternative remedy for the redressal of his grievances in accordance with law.

Resultantly, the present petition is dismissed as not pressed with afore-stated liberty.

21.11.2018

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(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No