

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

Civil Writ Petition No.27705 of 2018

Chander Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

(2)

Civil Writ Petition No.27757 of 2018

Surajbhan

... Petitioner

Versus

State of Haryana and others

... Respondents

(3)

Civil Writ Petition No.27818 of 2018

Chander Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

Decided on : 20.11.2018

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

Present : Mr. Sawan Choudhary, Advocate
for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of three writ petitions i.e. CWP
Nos.27705, 27757 and 27818 of 2018.

Challenge in the present writ petitions filed under Article
226/227 of the Constitution of India is to the order dated 28.08.2018
(Annexure P-2), whereby the application under Section 28-A of the Land

Acquisition Act, 1894 (for short 'the Act') had been dismissed on account of limitation, as the same having not been filed within the prescribed period of 3 months.

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 petitions and prays for liberty to approach the competent authorities for the redressal of petitioners' grievances, in accordance with law.

Ordered accordingly.

NOVEMBER 20, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No