

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

RFA No. 3122 of 2015 (O & M)

Date of decision: 20.02.2018

Ramesh and others

....Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

AND

RFA No. 3123 of 2015 (O & M)

Ramehar (D) through L.Rs.

....Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. R.S. Malik, Advocate,
for the appellants.

Ms. Safia Gupta, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of two appeals i.e. RFA Nos. 3122 and 3123 of 2015, as common questions of facts and law are involved in both the appeals. Reference is being made to ***RFA No. 3122 of 2015, Ramesh and others vs. State of Haryana and others.***

C.M. Nos. 962-CI and 1055-CI of 2018 have been filed in RFA Nos. 3122 and 3123 of 2015 respectively for hearing of the main appeals by fixing actual date of hearing in view of the order passed on 22.11.2017 by the Apex Court (Annexure A-1) whereby, the amount of compensation on account of acquisition has been fixed at Rs.60,92,400/- in the appeals filed

by the land owners.

By consent, the main appeals are accordingly taken up for hearing today itself.

The appeals filed by the land owners under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') are directed against the order dated 29.12.2014 passed by the Land Acquisition Collector, Rohtak whereby, the amount of Rs.52,25,000/- per acre was granted to the land owners in view of the fact that the Reference Court vide award/judgment dated 31.03.2013 in the case of Dharambir and others vs. State of Haryana and others had fixed the market value of the land acquired which is falling in village Revli. The acquisition which was sent in motion on 15.09.2006 was for the development of Sectors 9 and 18, Sonapat and vide the award dated 12.06.2009 whereby, the Land Acquisition Collector had awarded the land owners a sum of Rs.45,00,000/- per acre. The appellants had never preferred a reference petition under Section 18 of the Act before the Reference Court whereas, the other land owners had filed such claim petitions and accordingly got enhancement to the extent of Rs.52,25,000/- on 31.03.2013.

Resultantly, the application under Section 28A was filed which has now been allowed. The land owners had preferred RFAs before this Court which were dismissed and the compensation granted by the Reference Court had been upheld. As noticed, they further preferred their legal remedies before the Apex Court which had granted enhancement on 22.11.2017 to the tune of Rs.60,92,000/-, which now the appellants claim.

The maintainability is a subject matter of consideration which is being addressed by this Court as admittedly, the appeal would not lie

against the order of the Collector as the Collector is not a Court as defined under Section 3(d). The legal issue already stands decided against the appellants in ***Ompal vs. State of Haryana and others, 2015 (8) RCR (Civil) 502***. After considering the law on the aspect, it was held that the appeal was not maintainable and there was a remedy under Section 28-A(3) of the Act. The relevant portion reads thus:-

“16. The aforesaid provisions make it crystal clear that an appeal to this court lies only against the award or a part of the award passed by the court and not the Collector. In the present set of appeals, the landowners have filed the same impugning the award of the Collector passed under Section 28A(2) of the Act, which is not appealable under Section 54 of the Act. In fact, the remedy against the same has been clearly provided in Section 28A(3) of the Act.

17. The contention of learned counsel for the landowners that going to the Reference Court would be an exercise in futile as the Collector had already awarded the compensation on the basis of the award of the Reference Court is merely to be noticed and rejected. Once a specific procedure has been provided, the same deserved to be followed. Remedy of appeal is a creation of statute, unless it is specifically provided that the order/award cannot be impugned before the Court. Reference can be made to the judgments of Hon'ble the Supreme Court in Indira Nehru Gandhi (Smt.) v. Raj Narain and another, (1975) 2 SCC 159 and Shiv Shakti Coop. Housing Society, Nagpur v. M/s Swaraj Developers and others, AIR 2003 SC 2434.

18. In CR No. 4225 of 2014—Dalbir Singh and another v. State of Punjab and others, decided on 25.5.2015, this court opined that a revision against the

award of the Collector under Section 28A of the Act is not maintainable.

FINDINGS

19. Accordingly, the question is answered in terms that against an award of the Collector passed under Section 28A of the Act, appeal is not maintainable before this court as the remedy against the same is available under Section 28A(3) of the Act by filing an application to the Collector seeking reference of dispute to the Court.

20. As the landowners in the present case being ill-advised, instead of filing application to the Collector for referring the matter to the court for re-fixation of compensation, had approached this court taking a plea that other matters seeking enhancement of compensation are pending before this court, in my opinion, keeping in view the interest of the landowners, they need to be given an opportunity to file applications before the Collector under Section 28A(3) of the Act within four weeks from today.

21. The appeals stand disposed of in the aforesaid terms.”

Resultantly, keeping in view the above, the present appeals are held to be not maintainable and are disposed of in the same terms with liberty to the appellants to file their applications before the Collector under Section 28-A(3) of the Act within a period of 4 weeks from today.

20.02.2018
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No