

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

(1) CWP No.38041 of 2018

Santosh Kumari & others ... Petitioners
Versus
Union of India & others ... Respondents

(2) CWP No.37489 of 2018

Sudershan Kumar ... Petitioner
Versus
Union of India & others ... Respondents

(3) CWP No.37495 of 2018

Jagdish Singh & another ... Petitioners
Versus
Union of India & others ... Respondents

(4) CWP No.38046 of 2018

Dhan Devi & others ... Petitioners
Versus
Union of India & others ... Respondents

Decided on : 21.12.2018

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

Present : Mr.Naresh Kumar, Advocate, for
Mr.K.S.Dadwal, Advocate, for the petitioners.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petitions, filed under Articles 226/227 of the Constitution of India, is to the order dated 28.08.2015 (Annexure P-5) passed by the Land Acquisition Collector, whereby the applications filed under Section 28-A have been dismissed on the ground of limitation.

In essence, the petitioners are claiming the benefit of judgment of the Apex Court in CA No.4426 of 2008 titled *Union of India Vs. Kamla Devi & another*, decided on 19.01.2011, whereby the market value has been fixed @ Rs.12,000/- per acre, for the land acquired in the year 1982, by upholding the order of the Division Bench of this Court.

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.

December 21st, 2018
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*