

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

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CWP-5155-2019

Date of decision: 26.02.2019

Mahender & another

....Petitioners

Versus

State of Haryana & others

...Respondents

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

Present: Mr.S.S.Sahu, Advocate, for the petitioners.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order dated 07.04.2016 (Annexure P-3) passed by the Land Acquisition Collector, Fatehabad, under Section 28-A of the Land Acquisition Act, 1894 (for short, the 'Act'). Vide the impugned order, respondent No.3 has declined compensation on the ground that it was filed on the basis of the judgment passed by this Court in RFA-4584-2015 titled *Smt. Seema Devi Vs. State of Haryana & others*, decided on 29.10.2015.

Counsel for the petitioners has submitted that the Land Acquisition Collector had awarded a sum of Rs.5 lakhs for the notification under Section 4 of the Act dated 29.12.2004, which has been upheld by the Reference Court on 20.09.2013 (Annexure P-1) and thus, there could be no occasion, as such, to approach the Land Acquisition Collector on that account. It is, accordingly, submitted that on account of the amount being enhanced by this Court in Smt.Seema Devi (supra) and the amount having been enhanced to Rs.6,07,000/- per acre, the application had been filed.

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The Apex Court in CA-4885-2018 titled **Ramsingbhai Jerambhai Vs. The State of Gujarat & another** on 24.04.2018 has held that the remedy under Section 28A is only available where an award is passed by the Court under Chapter III of the Act. Thus, it has been held that the judgment of the Appellate Court is not within the purview of Section 28-A and resultantly, the plea of the landowners for redetermination of the compensation, in terms of the judgment of the High Court, was declined. Thus, no fault, as such, can be laid with the impugned order, to that extent.

Counsel, however, submits that he may be permitted to withdraw the present writ petition, with liberty to get the matter referred to the Reference Court, under Section 28-A(3). Said section reads as under:

“28A(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.”

Resultantly, keeping in view the above, the present writ petition is dismissed as not pressed, with liberty to seek the remedy, as noticed above.

26.02.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No