

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4237 of 2019

Date of Decision: 12.03.2019

Sat Parkash

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

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

Present: Mr. SS Sahu, Advocate for the petitioner

G.S. SANDHAWALIA, J. (Oral)

(1) The present writ petition filed under Articles 226/227 of the Constitution of India has been filed for grant of compensation for the land which is left after acquisition and has become useless and inappropriate for smoothly running business.

(2) The contention of the petitioner is that the area of 12ft. x 12ft. has become useless as the petitioner is not in a position to smoothly run the business over the small area left after acquisition by the State. The acquisition in question was done for the purpose of construction of over-bridge on Delhi-Ambala Railway line by the notifications dated 31.05.2010/15.06.2010.

(3) The petitioner preferred petition before the Reference Court under Section 18 of the Land Acquisition Act, 1894 against grant of compensation @ ₹ 47 lakhs per acre by the Land Acquisition Collector vide award dated 14.06.2011 and the said reference petition was declined vide award dated 20.01.2017. The petitioner has thereafter preferred RFA No.4025 of 2017 which has been admitted for regular hearing vide order of even date.

(4) Resultantly, it is apparent that the petitioner has already availed the remedy for the above-said benefit regarding acquisition of land. Section 23(1) of the Act provides that the damage, if any, sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of serving such land from his other land and by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings are the factors which have to be taken into consideration by the Reference Court before determining the compensation. Once the petitioner has already resorted to the remedy in accordance with law, the cause of action as such is not maintainable to file a writ petition on the same cause of action.

(5) Resultantly, there is no merit in the present petition and the same is accordingly dismissed *in limine*.

12.03.2019

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*

Yes/No

2. *Whether reportable?*

Yes/No