

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

CWP No. 30588 of 2019
Date of decision: 22.10.2019

Gram Panchayat, Jharli through Sarpanch

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Ajit Kumar, Advocate,
for Mr. R.D. Yadav, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the order dated 03.01.2019 (Annexure P-3) passed by respondent no. 2 whereby, the benefits under Section 28-A of the Land Acquisition Act, 1894 (in short 'the Act') have been declined on the ground that the application has been filed on the basis of the order passed by this Court in ***RFA No. 266 of 2012, Joginder Singh Tokash and others vs. State of Haryana and others*** decided on 04.02.2016. Resultantly, the said respondent relied upon the order of the Apex Court in ***Civil Appeal No. 4885 of 2018, Ramsingbhai Jerambhai vs. State of Gujarat and others*** decided on 24.04.2018.

The net effect is that the petitioner's claim for the market value for the land which was acquired vide award of the Land Acquisition Collector dated 08.05.2007 has not been enhanced to Rs.25,00,000/- as granted by the Apex Court in ***Civil Appeal No. 8757 of 2016, Arawali Power Company Pvt. Ltd. vs. Joginder Singh Tokash and others***

(Annexure P-2) decided on 05.09.2017.

The notification in question under Section 4 was issued on 16.01.2007 and the village in question is Jharli. A three-Judge Bench of the Apex Court in *Ramsingbhai's case (supra)* has held that the application is only maintainable on the strength of the award of the Court which would necessarily mean the Reference Court and not the Appellate Courts including the High Court and the Supreme Court. The relevant portion in *Ramsingbhai's case (supra)* reads thus:-

“2. Whether an application under Section 28A of the Land Acquisition Act, 1894 (for short “the Act”) for redetermination of the compensation can be filed within a period of 3 months from the date of judgment of the High Court or Supreme Court passed in appeal under Section 54 of the Act is the question that arises for consideration in this case.

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*It is clear from the opening words of the provision that the redetermination under Section 28A is available only in respect of an “Award” passed by the “court” under Part III of the Act, comprising Sections 18 to 28A (both inclusive). The “court” referred to in Section 28A of the Act is the court as defined under Section 3(d) to mean “... a principal civil court of original jurisdiction ...”. Thus, the judgment of the appellate court is not within the purview of Section 28A. It is also to be noted that the appellate courts under Section 54 are under Part VIII of the Act whereas the redetermination is only in respect of the Award passed by the Reference Court under Part III of the Act. (See *Jose Antonio Cruz Dos R. Rodriguese & another v. Land Acquisition Collector & another*¹). In its recent judgment in *Bharatsing and others v. The State of Maharashtra* and others², this Court has surveyed the decisions on this issue and reiterated the legal principle.*

4. What the appellant seeks is redetermination of

compensation under the Act in terms of the judgment of the High Court passed under Section 54 of the Act. In view of the settled legal position which we have explained above, the appellant is not entitled to such a relief; his entitlement, if any, is only in terms of Section 28A of the Act based on the award of the Reference Court.

5. The appeal is accordingly dismissed. Pending application (s), if any, shall stand disposed of. No costs.”

In such circumstances, the reasoning which has weighed with respondent no. 2 cannot be faulted in any manner. However, it is left open to the land owners to seek the said amount of market value on the strength of being a co-owner in execution proceedings in view of the law laid down in ***A.Viswanatha Pillai Vs. Special Tahsildar for Land Acquisition 1991 (4) SCC 17*** and the judgments passed by this Court in '***Smt. Parawati and another Vs. State of Haryana' 2009 (5) RCR (Civil) 572 and 'Parkasho Vs. State of Punjab' 2011 (5) RCR (Civil) 493***, if permissible.

Accordingly, there is no merit in the present writ petition and the same is dismissed in limine.

22.10.2019
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No