

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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**CWP No.30042 of 2019
& other connected cases
Decided on : 18.10.2019**

Harbans & others

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present : Mr. R.D.Yadav, Advocate
Mr.S.S.Chaudhary, Advocate
Mr.Ajit Kumar Sharma, Advocate, for the petitioners.

G.S. Sandhawalia, J. (Oral)

This judgment shall dispose of 41 writ petitions, bearing CWP-30042, 30083, 30084, 30087, 30089, 30094, 30098, 30101, 30104, 30107, 30111, 30112, 30114, 30115, 30117, 30123, 30124, 30125, 30126, 30140, 30142, 30143, 30147, 30152, 30153, 30155, 30169, 30178, 30179, 30180, 30187, 30189, 30199, 30200, 30201, 30202, 30203, 30212, 30254, 30293 & 30302-2019, involving similar questions of law and facts. However, to dictate orders, facts have been taken from **CWP-30042-2019** titled *Harbans & others Vs. State of Haryana & others*.

In the present petitions filed under Article 226/227 of the Constitution of India, challenge has been raised to the order dated 06.12.2018 (Annexure P-3), whereby the applications, filed under Section 28-A of the Land Acquisition Act, 1894 (for short, the 'Act') have been dismissed. The ground for dismissal is that the same was filed on the basis of the judgment passed by this Court in **RFA-266-2012** titled *Joginder*

Singh Tokas & others Vs. State of Haryana & others, decided on 04.02.2016. The LAC has placed reliance upon the judgment passed by the Apex Court in **CA-4885-2018** titled *Ramsinghbhai (Ramsinghbhai) Jerambhai & others Vs. State of Gujarat & others*, to substantiate the dismissal of the application.

In similar circumstances, this Court had dismissed **CWP-1199-2019** titled *Mahabir & another Vs. State of Haryana & others*, on 24.01.2019. Relevant portions of the judgment read as under:

“It is not disputed that the land was acquired vide notification dated 16.01.2007 and uniform rate of Rs.16 lakhs per acre was granted by the LAC, for the four villages for which different awards had been passed. The purpose of acquisition was for the construction of Thermal Power Project by the Arawali Power Corporation Ltd. The Reference Court did not grant any enhancement and it is only this Court, in the above-said RFA, the market value of the acquired land was fixed @ Rs.29,00,400/- per acre.

The said judgment was modified in **Arawali Power Company Pvt. Ltd. Vs. Joginder Singh Tokash & others 2017 (4) RCR (Civil) 577** and the market value has been fixed @ Rs.25,00,000/- per acre on 05.09.2017.

Bolstered by the decision of this Court, application under Section 28-A was filed and the same had been dismissed. The Apex Court in Ramsinghbhai (supra) has restated the earlier judgments and framed the following question:

“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.”

Resultantly, it was held that the appellant is only entitled for the relief in terms of Section 28-A passed on the award of the Reference Court and not any enhancement which has been passed in the appeal. Relevant para reads as under:

“5. 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.

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

Resultantly, the order passed by the LAC does not suffer from any infirmity, which would warrant interference by this Court and accordingly, the present appeal is dismissed in limine.

Needless to say that if the petitioners have any other remedy for getting compensation on the same terms, it is always open to them to approach the appropriate forum and the orders passed herein would not, as such, bar the petitioners from claiming the said relief.”

It is not disputed that for the land of the landowners to get an equal amount of compensation, has been recognized by the Apex Court in **Narendra & others Vs. State of Uttar Pradesh & others 2017 (9) SCC 429**. The said principle has also been laid down that in acquisition proceedings, co-sharers can also get the benefit of the amount of compensation fixed by the Reference Court. Reliance can be placed upon

the judgment of Apex Court 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.

In such circumstances, the present writ petitions are dismissed in limine, in view of the reasons given in **Mahabir** (supra), as reproduced above, giving liberty to the landowners, to seek their remedy, in accordance with law.

October 18th, 2019
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No