

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

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CWP No.8625 of 2019

Decided on : 02.04.2019

Paramjit Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

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

Present: Mr. J.S. Thind, Advocate for the petitioner.

G.S. Sandhawalia, J. (Oral)

The challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the order dated 20.12.2018 (Annexure P-4) passed by respondent No.2. The claim for enhancement on the basis of the Award passed by the Reference Court, Amritsar dated 23.12.2016 (Annexure P-3) has been rejected on the ground that it is beyond the three months period from obtaining the certified copy of the Award. The delay is stated to be of 597 days.

Section 28A of the Land Acquisition Act, 1894 (for short 'the Act') itself prescribed the period. It is not disputed that under Section 28A (3) of the Act the petitioner has a remedy to get the matter referred to the Court of competent jurisdiction by making written application to the Collector. Section 28A (3) reads as under:-

“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 the case of **United Bank of India vs.**

Satyawati Tondon & Ors. (2010) 8 SCC 110 has held as under:-

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“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;
- (b) the petition reveals all material facts;
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;
- (e) ex facie barred by any laws of limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law."

Keeping in view the above, the present writ petition is dismissed as withdrawn, since counsel wishes to approach the competent authority for the necessary relief.

APRIL 02, 2019

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No