

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12831 of 2015 (O&M)

Date of Decision: 09.09.2019

Amarjit Singh @ Jit Singh & Anr.

... Petitioners

VS.

Union of India & Ors.

... Respondents

CWP No.13308 of 2015

Date of Decision: 09.09.2019

Satnam Singh

... Petitioner

VS.

Union of India & Ors.

... Respondents

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

Present: Mr. AP Setia, Advocate for the petitioners

Ms. Ranjana Shahi, Advocate
Mr. Varun Issar, Advocate,
Mr. Minkal Thatai, Advocate for
Mr. Arun Gosain, Advocate for UOI

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of above-captioned writ petitions involving similar issues. CWP-12831-2015 is being treated as the lead case for the purpose of order.

The petitioners by way of the present writ petition filed under Articles 226/227 of the Constitution of India challenge the order dated 14.07.2014 (P10) whereby the respondent No.4 has declined to appoint an Arbitrator on the ground that landowners had received the compensation without any protest and accepted the same vide assessment report dated 06.03.1975 (R1/3). It is further the ground that the landowner Kartar Singh who was father of the petitioners (in CWP No.12831 of 2015) had also filed an application under Section 28A of the Land Acquisition Act, 1894 which

was allowed on 30.05.1988 (R1/1) and therefore they were not entitled to any relief as prayed for. The direction which had been issued as such for referring the matter to the Arbitrator after hearing the parties was complied with in the facts and circumstances and the benefit denied in view of concealment of facts.

In the written statement the plea taken by the respondents is that the land was owned by Kartar Singh and it was acquired way back on 06.03.1975. The landowners had accepted the compensation in full and final settlement vide assessment report dated 06.03.1975. Form CC was also appended as Annexure R1/3 which would show that Kartar Singh accepted a sum of Rs.15277/- on 09.08.1975 for the land in question. It has not been mentioned that when Kartar Singh died and the demand by way of legal notice as such was raised on 23.02.2010 for appointment of an Arbitrator.

It is not disputed that the awards passed under Section 28A of the 1894 Act were set aside by this Court in **Union of India vs. Spl. Land Acquisition Collector 1999(2) PLR 412** on 01.04.1999 on the ground that requisition under 1952 Act is a separate legislation and the provisions of the 1894 Act cannot be read into the same. The petitioners have not denied the factum that the application under Section 28A was allowed in their favour which has also been appended along with the written statement as Annexure R1/1. The same would show that both the predecessors-in-interest of the petitioners, namely, Kartar Singh, Gurdev Singh sons of Narain Singh in one case and Jaswant Singh in the other had as such sought re-determination of the compensation under Section 28A and had been successful way back 30.05.1988. It is thus apparent that they had never asked for appointment of Arbitrator as such at the initial stage.

This Court while dealing with the appointment of Arbitrator in a bunch of cases in CWP No.13224 of 2015 Ajaib and other vs. Union of India decided on 30.05.2019 pertaining to the same acquisition has held that the petition is not maintainable after a delay of 32 years while placing reliance on a Division Bench judgment in **Banto Ram & Ors. vs. Union of India & Ors. 1989(2) PLR 401**. The conduct as such of the landowners is also the one where they were not liable to be heard on merits as they have concealed the facts that they had preferred a petition under Section 28A. Therefore they had never agitated for their grievances on an earlier point of time after their predecessors-in-interest had received the compensation without any protest way back in the year 1975. The petitions thus filed at this belated stage in the year 2015 are not maintainable.

Resultantly, there is no merit in the writ petitions and the same are accordingly dismissed.

09.09.2019

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No