

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

CWP-13067-2018

Date of decision: 28.08.2019

Model Economic Township Ltd.

....Petitioner

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Puneet Bali, Sr.Advocate
with Ms.Sonia Madan, Advocate, for the petitioner.

Ms.Vibha Tewari, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order dated 06.03.2014 (Annexure P-4) passed by the Land Acquisition Collector, Gurugram, whereby a sum of Rs.1,20,14,000/- per acre has been awarded as compensation, in an application, filed under Section 28-A of the Land Acquisition Act, 1894, for the land situated in Village Harsaru Tehsil & District Gurugram. Notification under Section 4 was dated 25.01.2008 and the Land Acquisition Collector had awarded Rs.50 lakhs per acre vide award No.18 dated 26.09.2008. On the basis of the Reference Court having decided cases pertaining to the same notification vide award dated 08.01.2013 the amount has been enhanced to the same level, as mentioned above.

The present writ petition has been filed primarily on the ground that on the date of decision, the matter was pending before this Court, on the ground that the appeals arising out of the same notification, were pending

before this Court, which were eventually decided on 20.05.2016 in **RFA-4475-2012** titled *Ram Chander & another Vs. State of Haryana & others* (Annexure P-5), which order has further been modified by the Apex Court on 05.09.2017/02.11.2017. It is, in such circumstances, prayed that Collector should have stayed his hands till the pendency of the matters before the superior Court, in view of the settled principles of law in **Bharatsing & others Vs. State of Maharashtra & others (2018) 11 SCC 92**.

State has objected to the said relief being granted, on the ground that in similar circumstances, an order had been passed on 06.03.2014 in a petition filed by the petitioner under Section 28-A also, which had been challenged in CWP-23688-2016 titled *M/s Model Economic Township Ltd. Vs. Land Acquisition Collector*, decided on 10.10.2017. The benefit was declined on the ground that the petitioner was a limited company and not an illiterate landowner and it should have known the state of the other cases and it had not been pointed out before the Collector that there was any appeal pending before this Court and thus, the writ petition had been dismissed. The said order has further been upheld by the Apex Court in SLP(C) No.618 of 2018, on 26.02.2019, by observing as under:

“10. It is neither the case of the petitioner nor it is even remotely contended that despite being aware of such pending challenge, the Collector had proceeded with the matter and decided the application under Section 28A. It is also not the case that the petitioner had made the Collector aware or brought it to the notice of the office about pendency of such

matter/further challenge. The petitioner approached the High Court on 15.11.2016 only after the compensation was enhanced by the High Court to the level of Rs.2,80,00,000/- per acre in respect of comparable lands vide judgment dated 24.5.2016. Again, there is nothing in the petition as to why the petitioner took so much time to realise that the course undertaken by the Collector was not in keeping with the principles laid down by this Court. Looking to the profile of the petitioner which is a limited company, it can certainly be said to be having resources to equip itself with adequate knowledge on the front. The explanation offered by the petitioner in the affidavit pursuant to the direction issued on 06.02.2019, in our view, is not satisfactory. The explanation that the petitioner became aware for the first time on 03.08.2016 does not appear to be correct and reliable. Again, if, Shri Satyawan who swore the affidavit as wholetime Director of the petitioner-company, was aware on 03.08.2016 that the compensation stood enhanced by the High Court vide judgment and order dated 24.05.2016, there is no reason why the filing of the writ petition was delayed till 15.11.2016. For an entity who held more than 10% of the land under acquisition the way it conducted itself does not inspire any confidence. The idea under Section 28A is certainly to extend benefit of equal compensation to landholders who, for some reasons had not preferred appropriate applications for Reference in time but for a company having profile such as the petitioner, inaction on the front followed by delay in filing petition in the High Court, in our view, disentitles the petitioner from claiming any relief under Article 226 of the Constitution.

11. The High Court was, therefore, justified in rejecting the petition. We see no reason to interfere. This Special Leave Petition is dismissed.”

Learned Senior Counsel for the petitioner has been fair enough to submit that the review filed also stands dismissed on 09.05.2019.

In such circumstances, the position being identical, the present writ petition also stands dismissed.

28.08.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>