

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24684 of 2019
Date of Decision: 06.09.2019

Ramotar

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

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

Present: Ms. Gurdeep Kaur, Advocate for
Mr. Sandeep K Sharma, Advocate for the petitioner

G.S. SANDHAWALIA, J. (Oral)

The challenge in the present writ petition is to the order dated 13.02.2019 (P5) whereby Land Acquisition Collector has dismissed the application under Section 28A wherein the petitioner sought the same amount of compensation to the tune of Rs.25 lakhs as awarded by the Supreme Court in **Civil Appeal No.8757 of 2016 Arawali Power Company P.Ltd. vs. Joginder Singh Tokash & Ors.** decided on 05.09.2017 (P3). The reasoning which has been adopted by the Land Acquisition Collector is that the application was filed on the strength of the order of the Apex Court which had modified the order of this Court whereby Rs.29,00,400/- had been granted for the notification dated 16.01.2007. The Land Acquisition Collector has relied upon the question of law laid down by the Apex Court in ***Ramsinghbhai (Ramsangbhai) Jerambhai vs. The State of Gujarat & Anr. AIR 2018 SC 2629*** wherein it has been held that the award passed by the "Court" under Part-III would give a right under Section 28A which would mean the principle Civil Court of original jurisdiction and not the High Court or the Supreme Court of India. The reasoning as such which has prevailed with the Land Acquisition Collector as such cannot be

Court. However, the right of the petitioner to seek higher amount of compensation and parity with other landowners has arisen on account of piquant situation that the Reference Court on 11.11.2011 had dismissed the petition under Section 18 filed by other landowners and therefore on account of no enhancement given the petitioner could not file petition under Section 28A to claim higher compensation. The amount was increased by this Court as noticed and which was taken to the Apex Court and modified and finality has been given @ Rs.25 lakhs per acre.

It is settled principle that all landowners are entitled for the same amount of compensation and it is not for the State to contest such litigation forcing the landowners to unnecessarily defend this litigation which is absolutely uncalled for. Reliance can be placed upon judgment in **Narendra & Ors. vs. State of UP (2017) 9 SCC 426** wherein it has been held as under:-

“The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in mind that those land owners who are agriculturist in most of the cases, and whose land is acquired for public purpose should get fair compensation. Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is incorporated by the Legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not be made applicable and rendering

substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell of their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons divested of their land is determined by the Land Acquisition Collector. Scheme further provides that his determination is subject to judicial scrutiny in the form of reference to the District Judge and appeal to the High Court etc. In order to ensure that the land owners are given proper compensation, the Act provides for 'fair compensation'. Once such a fair compensation is determined judicially, all land owners whose land was taken away by the same Notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination by giving different treatment to the persons though identically situated. On technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them.

No doubt the judicial system that prevails is based on adversarial form of adjudication. At the same time, recognising the demerits and limitations of adversarial litigation, elements of social context adjudication are brought into the decision making process, particularly, when it comes to administering justice to the marginalised section of the society.

Counsel for the petitioner thus submits that keeping in view the laid down in **A. Viswanatha Pillai and Ors. vs. Special Tahsildar for Land Acquisition No. IV & Ors. (1994) 4 SCC 17** and **Smt. Parvati vs. State of Haryana 2009 (5) RCR (C) 572** the petitioner may be relegated to

avail his remedy before the Executing Court to seek the same amount of compensation as has been awarded to co-sharers. Accordingly, the present writ petition is disposed of with liberty to the landowners to agitate their grievances in accordance with the above settled proposition.

Ordered accordingly.

06.09.2019

vvishal

(G.S. Sandhawalia)
Judge

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

Yes/No
Yes/No