

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

RFA-1454-2015

Date of decision: 20.05.2019

Aman & another

....Appellants

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Virender Khatri, Advocate, for the appellants.

Mr.Sudeep Mahajan, Addl.A.G., Haryana.

Ms.Vibha Tewari, AAG, Haryana.

Mr.Pritam Singh Saini, Advocate, for the HSIIDC.

G.S. SANDHAWALIA, J.

The present appeal, by the landowners, is filed under Section 54 of the Land Acquisition Act, 1894, is against the award of the Addl.District Judge, Sonapat dated 30.04.2014.

The notification in question is dated 13.08.2004 and the Reference Court, Sonapat has enhanced the compensation from Rs.12,50,000/- per acre to Rs.17,00,000/- per acre, on the strength of the award dated 12.09.2011 of the Reference Court, passed under Section 28-A.

A perusal of the record would go on to show that reference petition dated 14.09.2011 was filed before the District Revenue Officer-cum-Land Acquisition Collector on 20.09.2011, which was forwarded on 26.06.2012 to the Addl.District Judge, without passing any order under Section 28-A(2). Keeping in view the award passed by the Reference Court earlier on 12.08.2011 titled **Raj Kumar & others Vs. State of Haryana**, Reference Court has wrongly adjudicated on the issue and enhanced the compensation, without noticing that the jurisdiction was of the

District Revenue Officer-cum-Land Acquisition Collector, who was required to pass the order under Section 28-A(2). The provisions read as under:

“28A Re-determination of the amount of compensation on the basis of the award of the Court.

(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court: Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(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.”

It has been time and again noticed that the District Revenue Officer-cum-Land Acquisition Collectors in Haryana are referring the matters without passing the necessary orders and therefore, the jurisdiction exercised by the said Reference Court is without any authority. Under Section 28-A(3), once an award has been passed by the District Revenue Officer-cum-Land Acquisition Collector, then the matter can be referred to the District Judge, if the landowners are not satisfied with the award.

Accordingly, the present appeal is allowed and the said order is set aside and the matter is remanded to the District Judge, Sonapat, to further refer the same back to the District Revenue Officer-cum-Land Acquisition Collector, to pass the order under Section 28-A(2), in accordance with law.

20.05.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*