

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

**RFA-41-2015 alongwith
RFA-8989 & 9107-2014 and
RFA-39, 40 & 42-2015
Date of decision: 20.05.2019**

HSIDC now HSIIDC

....Appellant

Versus

Raj Rani & others

...Respondents

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

Present: Mr.Vishal Garg, Addl.A.G., Haryana, for HSIIDC.
Mr.Abhinash Jain, AAG, Haryana.

Mr.S.P.Khatri, Advocate
Mr.Navneet Singh, Advocate, for the landowners.

G.S. SANDHAWALIA, J. (Oral)

This judgment shall dispose of 6 appeals bearing RFA-8989 & 9107-2014, RFA-39 to 42-2015, filed under Section 54 of the Land Acquisition Act, 1894, arising out of the awards dated 30.04.2014 & 02.05.2014, passed by the Addl.District Judge, Sonapat, whereby the amount of compensation has been enhanced from Rs.16,00,000/- per acre, as awarded by the Land Acquisition Collector, to Rs. 30,00,000/- per acre, in the application filed under Section 28-A. The basis of enhancement is that the Reference Court, on an earlier occasion, on 16.09.2011, has enhanced the compensation for the notification dated 26.11.2006, from Rs.16,00,000/- per acre to Rs.30,00,000/- per acre.

A perusal of the record would go on to show that the application under Section 28-A was filed on 06.12.2011 before the Land Acquisition Collector and notice was issued for 20.12.2011. Thereafter, on 26.06.2012, the District Revenue Officer-cum-Land Acquisition Collector referred the matter to the Addl.District Judge, who issued notice on 31.07.2012, for 09.08.2012.

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There is nothing on record to show that the Land Acquisition Collector, at any point of time, passed the order under Section 28-A(2), which is the statutory mandate. It is only in case if the landowners are not satisfied by the award passed under Section 28-A(2) that the matter is referred, under Section 28-A(3), to the Addl.District Judge. 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.

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(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.”

Therefore, the reference petitions itself are vitiated, as such and the matter could not have been proceeded ahead by the Addl.District Judge, who has wrongly passed the orders dated 30.04.2014 & 02.05.2014 and the same suffers from legal infirmity.

Accordingly, the present appeals are allowed and the said orders are set aside and the matters are remanded to the Addl.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).

20.05.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*