

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

Civil Writ Petition No.370 of 2020

Dharampal and others

... Petitioners

Versus

State of Haryana and others

... Respondents

(2)

Civil Writ Petition No.388 of 2020

Mange Ram and others

... Petitioners

Versus

State of Haryana and others

... Respondents

Decided on : 09.01.2020

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

Present : Mr. B.K. Bagri, Advocate
for the petitioners.

G.S. Sandhawal, J. (Oral)

The present order shall dispose of 2 writ petitions i.e. **CWP Nos.370 & 388 of 2020** filed under Articles 226/227 of the Constitution of India. The same are directed against the order dated 03.01.2019 (Annexure P-6) passed by the Land Acquisition Collector, Jhajjar-respondent No.3, whereby the application under Section 28A of the Land Acquisition Act, 1894 (for short 'the Act') has been dismissed on the ground that the same was filed on the basis of the judgment passed in **RFA-266-2012 titled Joginder Singh Tokash Vs. State of Haryana & others.**

Similar orders passed by the said officer on the said reasoning have been upheld by this Court in **CWP No.35666 of 2019 'Sombir and**

others Vs. State of Haryana and others' decided on 09.12.2019 and in **CWP No.37615 of 2019 'Bijender and others Vs. State of Haryana and others'** and other connected cases decided on 06.01.2020. The ground for upholding the order is on the basis of the judgment of the Three Judges Bench of the Apex Court, which has also been relied upon the Land Acquisition Collector. The relevant portion of the judgment passed in **Sombir (supra)** reads as under:-

“Counsel for the petitioner has mainly tried to convince this Court that the judgment of the Apex Court in **Ramsingbhai (Ramsangbhai) Jerambhai Vs. State of Gujarat & another 2018 (3) RCR (Civil) 114**, would not be applicable, which argument, this Court is not in agreement with. The specific issue was that enhancement by this Court and the Supreme Court, would not entitle the landowners to file a petition under Section 28-A of the Land Acquisition Act, 1894 and the principle of law was clearly culled out by the Three Judges Bench of the Apex Court. In such circumstances, the reasoning given in the impugned order dated 06.12.2018 (Annexure P-6), passed by the Land Acquisition Collector, Jhajjar, dismissing the petition filed under Section 28-A on that account, is justified.

The argument raised that the judgment only dealt with the issue of limitation, is also not correct. The relevant portion of the judgment in **Ramsingbhai (supra)** read as under:

“It is clear from the opening words of the provision that the redetermination under Section 28A is available only in respect of an “Award” passed by the “court” under Part III of the Act, comprising Sections 18 to 28A (both inclusive). The “court” referred to in Section 28A of the Act is the court as defined under Section 3(d) to mean “... a principal civil court of original jurisdiction ...”. Thus, the judgment of the appellate court is not within the purview of Section 28A. It is also to be noted that the appellate courts under Section 54 are under Part VIII of the Act whereas the redetermination is only in respect of the Award passed by the Reference Court under Part III of the Act. (See Jose Antonio Cruz Dos R. Rodriguese & another v.

Land Acquisition Collector & another1). In its recent judgment in Bharatsing and others v. The State of Maharashtra and others, this Court has surveyed the decisions on this issue and reiterated the legal principle.

4. What the appellant seeks is redetermination of compensation under the Act in terms of the judgment of the High Court passed under Section 54 of the Act. In view of the settled legal position which we have explained above, the appellant is not entitled to such a relief; his entitlement, if any, is only in terms of Section 28A of the Act based on the award of the Reference Court.

5. The appeal is accordingly dismissed. Pending application (s), if any, shall stand disposed of. No costs.”

From a reading of the above, it would be clear that the argument which has been raised by counsel is in complete contrast with what has been laid down by the Apex Court.

Accordingly, the present writ petition is dismissed. However, it is made clear that it is always open to the petitioner to seek enhancement of compensation before the Executing Court, in view of the law laid down in **A.Viswanatha Pillai Vs. Special Tahsildar for Land Acquisition 1991 (4) SCC 17, Smt. Parawati and another Vs. State of Haryana 2009 (5) RCR (Civil) 572 and Parkasho Vs. State of Punjab 2011 (5) RCR (Civil) 493.”**

Resultantly, keeping in view the above fact and liberty has also been given to seek enhancement of compensation before the Executing Court, in the case of co-sharers, no ground as such is made out to take a contrary view. Accordingly, the present writ petitions are dismissed in limine.

JANUARY 09, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No