

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-590-2020
& other connected cases
Decided on : 13.01.2020

Bhanoo & another

... Petitioners

Versus

State of Haryana & others

... Respondents

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

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

G.S. Sandhawalia, J. (Oral) :-

The present judgment shall dispose of the 9 writ petitions, bearing CWP No.590, 621, 630, 636, 638, 648, 665, 667 & 688-2020, filed under Articles 226/227 of the Constitution of India, challenging the orders dated 06.12.2018 & 03.01.2019, passed by the Land Acquisition Collector, Jhajjar, whereby the applications under Section 28-A of the Land Acquisition Act, 1894 (for short, the 'Act') have been dismissed.

The ground is that the same were filed on the basis of the judgment passed in **RFA-266-2012** titled **Joginder Singh Tokash Vs. State of Haryana & others**. The reason for upholding the order was on the basis of the three Judges Bench of the Apex Court in **Ramsingbhai (Ramsangbhai) Jerambhai Vs. State of Gujarat & another 2018 (3) RCR (Civil) 114**, which has been relied upon by the Land Acquisition Collector. Identical orders passed by the said officer have been upheld in CWP-35666-2019 titled *Sombir & others Vs. State of Haryana & others*, decided on 09.12.2019 and in CWP-37615-2019 titled *Bijender & others Vs. State of Haryana & others*, and other connected cases decided on 06.01.2020. 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 & another](#)¹). In its recent judgment in [Bharatsing and others v. The State of Maharashtra](#) and [others](#)², 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 13th, 2020
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No