

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

CWP-8680-2021 (O&M)

Date of decision: 02.09.2021

Raja Ram

...Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Sandeep Sharma, Advocate for the petitioner

Mr. Shivendra Swaroop, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner's application under Section 28-A of the Land Acquisition Act, 1894 was disposed of by the Land Acquisition Collector vide an award dated 10.02.2014 while awarding the market value as assessed by the reference court. In the meantime, the amount assessed by the reference court was enhanced by the High Court as well as the Supreme Court in the appeals filed by the various other land owners with respect to the land acquired under the same notification. The petitioner filed an application under Section 28-A (3) of the Land Acquisition Act, 1894 (hereinafter referred to as the '1894 Act'), for forwarding the reference to the court, which was allowed and the matter was referred to the court. The petitioner claims that the Land Acquisition Collector before deciding the application under Section 28-A of the 1894 Act should have waited for the judgment of the High Court and the Supreme Court in the cases of various other land owners.

Unfortunately, the petitioner as per the legal advice received chose to withdraw the petition from the court on 23.03.2021.

Through this writ petition, the petitioner claims that he is entitled to parity in the market value.

Section 28-A of the 1894 Act is extracted 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 is apparent that the petitioner had already applied for reference under Section 28-A(3) of the 1894 Act, which was allowed.

However, as already noticed, he withdrew the same.

Keeping in view the facts of the case, the writ petition is disposed of with liberty to the petitioner to file an application before the Additional District Judge, Gurugram to revive the petition. This Bench has no doubt that if such an application is filed by the petitioner, the same shall be decided by the court in accordance with law.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

02.09.2021

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE