

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

CWP-19814-2021 (O&M)

Date of decision: 25.11.2021

Haryana State Industrial and Infrastructure Development Corporation
Limited

....Petitioner

Versus

Banwari and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Saini, Advocate for
Mr. Pritam S Saini, Advocate for the petitioner
Mr. Vikram Saroha, Advocate for
Mr. Chanderhas Yadav, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

Through this writ petition filed under Articles 226/227 of the Constitution of India, the Haryana State Industrial and Infrastructure Development Corporation Limited prays for issuance of a writ in the nature of Certiorari to quash the order dated 15.09.2020 passed by District Revenue Officer-cum-Land Acquisition Collector, Jhajjar (hereinafter referred to as 'LAC'), while allowing an application under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'). The notification under Section 4 of the 1894 Act was issued on 17.11.2004. The LAC announced the award on 01.03.2006. The respondent did not file an application under Section 18 of the 1894 Act whereas various other owners filed applications under Section 18 of the 1894 Act before the LAC for referring the matter to the Court. On reference, the court decided the matter vide judgment dated 17.01.2012.

The various other owners filed the appeals before the High Court under Section 54 of the 1894 Act which were also disposed of vide judgment dated 12.02.2016 passed in RFA-1427-2014 titled as '**Rajith and others vs. State of Haryana and others**'.

Respondent no. 1 to 4 filed an application under Section 28-A of the 1894 Act on 30.06.2016 i.e after a period of more than 4 years and 5 months from the date of award passed by the Reference Court under Section 18 of the 1894 Act. The LAC has allowed the application under Section 28-A of the 1894 Act on the ground that the application has been filed within three months of the judgment passed by the High Court on 12.02.2016. Learned counsel representing the petitioner contends that application under Section 28-A of the 1894 Act could only be filed within a period of three months from the date of any award passed by the Reference Court and no application on the basis of the judgment passed by the High Court was maintainable. He relies upon a detailed judgment given by this Bench while deciding CWP-8456-2020 titled as '**Haryana State Industrial and Infrastructure Development Corporation Limited vs. Smt. Shanti and others**' on 06.09.2021.

On the other hand, learned counsel representing the respondents contends that an application under Section 28-A of the 1894 Act can be filed within three months from the date of judgment of the High Court.

This Bench, after examining the various precedents on the issue including the various Larger Bench judgments of the Supreme Court, has held that the application under Section 28-A of the 1894 Act

can only be filed within a period of three months from any judgment of the Reference Court under Section 18 of the 1894 Act, arising from the same acquisition but not from the date of judgment of the Supreme Court or the High Court.

Keeping in view the aforesaid facts, the writ petition deserves to be allowed for the elaborate reasons recorded in judgment dated 06.09.2021 passed in CWP-8456-2020. Hence, the order dated 15.09.2020 passed by the LAC is quashed.

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

25.11.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE