

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

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**1. RFA-5767-2015(O&M)
Date of Order: 29.11.2021**

DARIYAO SINGH

..Appellant

Versus

STATE OF HARYANA & ORS

..Respondents

2. RFA-5768-2015(O&M)

BALBIR SINGH

..Appellant

Versus

STATE OF HARYANA & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Punia, Advocate
for the appellant.

Mr. Shivendra Swaroop, AAG, Haryana and
Ms. Vibha Tewari, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

By this order, RFA-5767 & 5768-2015, shall stand disposed of.

While deciding Civil Appeal No.6100-6101 of 2021, the Supreme Court has remitted the matter back to the High Court for re-decision.

In the present case, notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”), was issued on 17.09.2002. The Land Acquisition Collector announced the award on 16.09.2003. Admittedly, the appellants did not file application under Section 18 of the 1894 Act, whereas, on the application of various other land owners, the Reference court re-assessed the market value of the acquired land vide judgment dated 06.11.2007.

In RFA-5767-2015, the appellant (Dariyao Singh) submitted an application on 29.11.2007, whereas, in RFA-5768-2015 the appellant (Balbir

Singh) filed an application on 04.12.2007. The applications were filed under Section 28(a)(iii) of the 1894 Act. The Land Acquisition Collector referred the matter to the Court treating them to be the applications under Section 28A(3) of the 1894 Act. The Reference Court rejected the applications on the ground that there is no enhancement qua the portion marked by letters 'XY' in the site plan.

The appellants filed appeal before this Court which were also dismissed. Even the review application was dismissed.

As already noticed, the Supreme Court has remitted the matter back to this Court for fresh decision while making the following observations:-

“Leave granted.

The challenge in the present appeals is to an order passed by the High Court on 13.10.2015 and the order in review on 03.12.2015 whereby an application filed by the appellants under Section 28-A of the Land Acquisition Act, 1894 (in short, ‘the Act’) was dismissed for the reasons that such application was filed before the Reference Court and not before the Land Acquisition Collector.

Learned counsel for the appellant submitted that in fact the application was filed before the Land Acquisition Collector itself on 29.11.2007. It was on reference, the Additional District Judge as the Reference Court declined to grant compensation in terms of Section 28-A of the Act.

There is factual dispute as to whether the appellants have filed an application under Section 28-A of the Act before the Land Acquisition Collector or not. The ancillary question would be whether such reference was sought within a period prescribed under Section 28-A of the Act.

Consequently, we find that the order passed by the High Court on 13.10.2015 and the order passed on 03.12.2015 are required to be set aside and the matter is remitted back to the High Court to decide the factual position as to whether the land owners have sought reference under Section 28-A of the Act before the Land Acquisition Collector or not, whether the Collector wrongly referred it to the Reference Court as application under Section 28- A of the Act was required to be decided by the Land Acquisition Collector himself and whether such an application was within the period of limitation.

With the abovesaid directions, the present appeals are allowed.

Pending application(s), if any, also stand disposed of.”

With the able assistance of the learned counsel representing the

parties, this Court has examined the record.

It is evident that the appellants, in both the appeals, did file application within a period of three months from the date of the judgment passed by the Reference Court on 06.11.2007. However, in the caption of the application, the appellants wrongly referred to Section 28(a)(iii). However, it is evident that the appellants had claimed the payment on the basis of the judgment passed by the Reference Court as per the provisions of Section 28A of the 1894 Act. It is also not in dispute that the appellants stand deprived of their land due to its compulsory acquisition. The High Court while deciding the various appeals from the same acquisition has now finally determined the amount of compensation payable to the landowners who stand deprived of their land due to the compulsory acquisition vide judgment dated 27.04.2009 in **Khazani and others Vs. State of Haryana and others** (RFA-2815-2008). Even the portion of the suit land marked by letters 'XY' in the site plan has also been awarded the same compensation. The High Court has determined a uniform compensation at the rate of Rs.3,97,000/- per acre qua Village Sitapur, Tehsil and District Sonipat.

The appeals filed by the landowners have already been dismissed by the Supreme Court while upholding the judgment passed by the High Court.

Now, the question is whether the Court should ignore an inadvertent error and decide the matter as if the application was under Section 28A of the 1894 Act. The facts have already been noticed. The appellants did file their respective applications within three months from the date of the judgment passed by the Reference Court.

Keeping in view the aforesaid facts, this Court is of the

depriving the appellants of the amount of appropriate compensation in accordance with the provisions of Section 28A of the 1894 Act.

Hence, both the appeals are allowed.

The appellants are held entitled to the same amount of compensation as has been assessed by the High Court while deciding RFA-2815-2008.

The Land Acquisition Collector is requested to release the payment along with all the statutory benefits.

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

November 29, 2021

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No