

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.2940 of 2022(O&M)

Date of decision:15.02.2022

SUMER SINGH SINCE DECEASED  
THROUGH LRS AND ORS

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:** Mr. Shiv Kumar Rana, Advocate, for  
Mr. Arun Dulgach, Advocate, for the petitioners.

Mr. Harsh Vardhan, AAG, Haryana  
for respondent no.1 to 3.

Mr. Samarth Sagar, Addl.A.G, Haryana  
for respondent no.4.

**ANIL KSHETARPAL, J (Oral)**

The petitioners pray for issuance of a writ in the nature of certiorari or any other suitable writ order or direction to the respondents to enhance the compensation on the principle of parity.

Some facts are required to be noticed.

In order to utilize the land for developing Industrial Model Township, a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the '1894 Act') was issued on 26.02.2002. The award by the Land Acquisition Collector was announced on 24.12.2003. The various other owners/villagers applied to the Collector for referring the matter for assessment of the market value to the Court. The Reference Court re-assessed the market value vide an award dated 30.11.2010. The various regular first appeals filed were also stated to have been allowed on

06.09.2019. The petitioners herein neither filed an application under Section 18 nor under Section 28-A of the 1894 Act. They have filed the present writ petition claiming that on parity, they are entitled to be awarded the same amount.

The Land Acquisition Act, 1894 is a complete code. The Act envisages two different opportunities to the landowners to apply for the redetermination of the market value. The first opportunity is under Section 18 of the 1894 Act, whereas the second one is under Section 28-A of the 1894 Act. The aforesaid provisions are extracted as under:-

***“18. Reference to Court.-***

*(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.*

*(2) The application shall state the grounds on which objection to the award is taken:*

*Provided that every such application shall be made-*

*(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;*

*(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”*

***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, required 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.”*

On the careful reading of Section 18 of the 1894 Act, it is evident that any interested person who has not accepted the award, may by written application to the Collector can pray for sending the reference to the Court. Such an application is required to be filed at the most within a period of 6 months from the date of the Collector's award.

The Supreme Court while interpreting the provisions liberally has held that such period of 6 months would commence from the date of knowledge of the award.

The second opportunity is given to the landowners when the Reference Court enhances the amount of market value from the amount assessed by the Land Acquisition Collector on the application of various other owners under the same notification. Such an application is required to be filed within a period of 3 months from the date of the award passed by the Reference Court. An application under Section 28-A of the 1894 Act for redetermination of the amount of compensation on the basis of the award of

the Court can be filed by an interested person, who has failed to avail the opportunity available under Section 18 of the 1894 Act.

Moreover, the Supreme Court in *Mohd. Hasnuddin vs. State of Maharashtra, (1979) 2 SCC 522*, has interpreted that there is no provision to condone the delay in filing under Section 18 of the 1894 Act.

As is evident, the Land Acquisition Collector gives an opportunity to the landowners to apply for redetermination. The learned counsel representing the petitioners failed to draw the attention of the Court to any statutory provision envisaging a writ Court to order parity in the payment of compensation to the interested person who have slept over the matter. In the present case, the Land Acquisition Collector announced the award in the year 2003. This writ petition has been filed in the year 2022. Hence, there is no explanation.

In view thereof, the writ petition is dismissed on both the counts i.e. having no merit as well as on the delay and latches.

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

February 15, 2022  
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(ANIL KSHETARPAL)  
JUDGE

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