

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Writ Petition No. 2520 of 2022

Haryana Urban Development Authority (now HSVP), Gurugram
... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others
... Respondent(s)

2. Civil Writ Petition No. 2523 of 2022

Haryana Urban Development Authority (now HSVP), Gurugram
... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others
... Respondent(s)

3. Civil Writ Petition No. 2524 of 2022

Haryana Urban Development Authority (now HSVP), Sector 14, Gurugram
... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others
... Respondent(s)

4. Civil Writ Petition No. 2527 of 2022

Haryana Urban Development Authority (now HSVP), Sector 14, Gurugram
... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others
... Respondent(s)

5. Civil Writ Petition No. 2528 of 2022

Haryana Urban Development Authority (now HSVP), Gurugram

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

6. Civil Writ Petition No. 2532 of 2022

Haryana Urban Development Authority (now HSVP), Gurugram

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

7. Civil Writ Petition No. 2535 of 2022

Haryana Urban Development Authority (now HSVP), Gurugram

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

8. Civil Writ Petition No. 8907 of 2022

Haryana Shehri Vikas Pradhikaran Sector 14, Gurugram

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

9. Civil Writ Petition No. 3129 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

10. Civil Writ Petition No. 3174 of 2022

Haryana Urban Development Authority (now HSVP), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

11. Civil Writ Petition No. 3176 of 2022

Haryana Urban Development Authority (now HSVP), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

12. Civil Writ Petition No. 3290 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

13. Civil Writ Petition No. 3311 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

14. Civil Writ Petition No. 3316 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

15. Civil Writ Petition No. 3324 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

16. Civil Writ Petition No. 3326 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

17. Civil Writ Petition No. 3328 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

AND

18. Civil Writ Petition No. 3855 of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran), Hisar

... Petitioner(s)

Versus

Land Acquisition Collector, HUDA and Others

... Respondent(s)

DATE OF JUDGMENT: 04.05.2022

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ankur Mittal, Ms.Kushaldeep K. Manchanda,
Ms. Vasundhara Asija, Mr.Abhishek Sharma and
Mr. Shivam Garg, Advocates, for the petitioner(s).

Mr. Randeep Singh Rai, Senior Advocate
with Mr. Kunal Dawar and Mr. Nitish Pathak, Advocates
for the respondent No.2 and 3 (In CWP-2523-2022,
CWP-2528-2022 & CWP-2535-2022), respondent No.2
(In 2524-2022), and respondent No.2 to 4 (In CWP-2527-2022
& CWP-2532-2022).

Mr. Vikram Singh, Advocate
for the respondent No.2 to 11 (In CWP-3316-2022,
CWP-3326-2022 and CWP-3328-2022).

Mr. Dharam Pal and Mr. Lajpat Rai Sharma, Advocates
for the respondent No.2 (In CWP-3855-2022).

Mr. Suresh Ahlawat, Advocate
for the respondent No.2 (In CWP-3324-2022).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana and Mr. Harsh Vardhan, Assistant Advocate General,
Haryana, for the State of Haryana.

Anil Kshetarpal, J.

1. While disposing of the case i.e. *Haryana State Industrial and Infrastructure Development Corporation Limited v. Smt. Shanti and Others (CWP-8456-2020, decided on 06.09.2021)*, this Court answered the following questions:-

I) Whether the owner of the acquired land is entitled to apply for re-determination of the market value of the acquired land u/s 28-A of the Land Acquisition Act, 1894 particularly when the reference court does not enhance the market value of the acquired land of various other owners, however, the High Court in exercise of appellate powers under Section 54 of the 1894 Act or the Supreme Court enhances the market value of acquired land of various other owners?

II) Whether the limitation for filing an application under section 28-A of the 1894 Act begins to run from the date of the judgment passed by the Supreme Court or the High Court in exercise of powers under Section 54 of the 1894 Act?

2. After relying upon the two larger Benches of the Supreme Court in *Jose Antonio Cruz Dos R. Rodriguese and Another v. Land Acquisition Collector and Another (1996) 6 SCC 746* and *Ramsinghai*

Supreme Court 2629, this Court has answered the aforesaid questions and held that the application under Section 28-A of the 1894 Act can only be filed if the Reference Court enhances the market value on the application filed under Section 18 of the 1894 Act by the various other landowners. It was also found that the application under Section 28-A of the 1894 Act can be filed within a period of three months from the date of judgment or award passed by the Reference Court. While answering question No.2, it was held that the limitation period cannot begin to run from the judgment of the Supreme Court or the High Court.

3. On 10.02.2022, while issuing the notice of motion, the following order was passed:-

“The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The learned counsel representing the petitioner inter-alia contends that the application under Section 28-A of the Land Acquisition Act, 1894, was not maintainable on the basis of the judgment passed by the High Court while deciding an appeal under Section 54 of the Land Acquisition Act, 1894 as well as by the Supreme Court. He contends that the application under Section 28-A of the Land Acquisition Act, 1894, can only be filed if the Reference Court enhances the market value of the acquired land from the award passed by the Land Acquisition Collector. In support of his of arguments, he relies upon the judgment passed in Haryana State Industrial and Infrastructure Development Corporation Limited vs. Smt. Shanti and others

(Civil Writ Petition No.8456 of 2020, decided on 06.09.2021).

Notice of motion for 15.03.2022.

In the meantime, the effect and operation of the respective impugned awards passed by the Land Acquisition Collector in all the writ petitions shall remain stayed.

Dasti also.

A photocopy of this order be placed on the other connected files”.

4. Heard the learned counsel representing the parties and with their able assistance, perused the paper book of the various writ petitions.
5. The learned counsel, representing the landowners, has drawn the attention of the Court to ***Union of India v. Munshi Ram (Dead) by LRs. And Others (2006)4 SCC 538***. The learned counsel refers to para 7 and 9 of the said judgment, which are extracted as under:-

“7. We are of the view that the Union of India is right in its submission that the amount payable under Section 28A of the Act is the amount which is finally payable by way of compensation to the owners of the land who challenged the award of the Collector and claimed reference under Section 18 of the Act. The said provision seeks to confer the benefit of enhanced compensation even on those owners who did not seek a reference under Section 18. It cannot be that those who secure a certain benefit by reason of others getting such benefit should retain that benefit, even though the others on the basis of whose claim compensation was enhanced are deprived of the

enhanced compensation to an extent. This would be rather inequitable and unfair. Moreover, even if it be that the compensation payable to claimants who have applied under Section 28A of the Act, is the enhanced compensation decreed by the Reference Court, we must understand the decree to mean the decree of the Reference Court as modified in appeal by higher Courts. Otherwise, an incongruous position may emerge that a person who did not challenge the award of the Collector and did not claim a reference under Section 18 of the Act would get a higher compensation than one who challenged the award of the Collector and claimed a reference, but in whose case a higher compensation determined by the Reference Court was subsequently reduced by superior court. There can be no dispute that those claiming higher compensation and claiming reference under Section 18 of the Act are bound by the decree as modified by the superior Court in appeal. The principle of restitution must apply to them. For the same reason, the same consequence must visit others who have been given benefit of enhanced compensation pursuant to the decree passed in reference proceeding on the application of others.

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9. *We hold that under Section 28A of the Act, the compensation payable to the applicants is the same which is finally payable to those claimants who sought reference under Section 18 of the Act. In case of reduction of compensation by*

superior courts, the applicants under Section 28A may be directed to refund the excess amount received by them in the light of reduced compensation finally awarded”.

6. On a careful reading of the aforesaid judgment, it is evident that the question involved before the Supreme Court in the aforesaid case was slightly different. The question was “if the award passed by the Reference Court is subsequently reduced by the Supreme Court or the High Court, then, whether the amount of compensation to be awarded under Section 28-A of the 1894 Act, shall stand reduced?”. In that context, the Court held that if the amount of the market value is reduced by the Appellate Court or the Superior Court, the applicants, under Section 28-A of the 1894 Act, shall be liable to refund the excess amount received by them in the light of the reduced compensation, finally awarded. In these circumstances, the judgment in ***Munshi Ram’s case*** (*supra*) is not applicable. In these cases, the application under Section 28-A of the 1894 Act has been filed on the basis of the judgment passed by the Supreme Court or the High Court. In other cases, there is no enhancement by the Reference Court. The aforesaid two questions already stand answered.

7. In view of the above, all the writ petitions are allowed. The respective orders passed by the Land Acquisition Collector under Section 28-A of the 1894 Act are set aside.

**(Anil Kshetarpal)
Judge**

May 04, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No