

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4265-2022(O&M)
Date of decision:04.03.2022

AJIT SINGH @ JIT SINGH AND ANOTHER ...Petitioners

Versus

STATE OF PUNJAB AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravindra Singh, Advocate, for the petitioners
Mr. Nikhil Chopra, Addl.A.G., Punjab

ANIL KSHETARPAL, J (Oral)

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

The petitioners pray for issuance of a writ in the nature of mandamus to direct the respondents to award the amount of compensation @ Rs.46,829/- per acre, along with all the statutory benefits on account of compulsory acquisition of the land under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act').

The acquisition was initiated on 24.09.1985. On the application of various other owners, the matter was referred to the Court which assessed the amount vide an award dated 04.05.1998 @ Rs.46829/- per acre. The petitioners claim to be Non Resident Indians (NRI). They did not file an application under Section 18 of the 1894 Act. An application filed under the Section 28-A of the 1894 Act was dismissed as time barred on 25.06.2010.

The Regular First Appeal filed by the State was allowed on 26.07.2010. Subsequently, the Supreme Court on 27.06.2008, restored the assessment of the compensation as ordered by the Reference Court while

setting aside the judgment of the High Court. The petitioner-Ajit Singh @ Jit Singh filed a revision petition in the year 2011 which was dismissed as withdrawn on 05.03.2012. Thereafter, the same Ajit Singh @ Jit Singh filed a Regular First Appeal No.4438 of 2013, which was also withdrawn on 26.08.2013.

The petitioners claim that since the various other owners, who are identically situated have been held entitled to the market value @ Rs.46829/- per acre along with all statutory benefits payable under the 1894 Act, therefore, the petitioners are also entitled to the same relief.

The Land Acquisition Act, 1894 is a complete code. It does not provide for the payment of the same amount of compensation to the various other owners who do not avail the remedy either under Section 18 or Section 28-A of the Land Acquisition Act, 1894. Section 28-A of the 1894 Act reads 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, 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.”

An application filed by the petitioners under Section 28-A of the Land Acquisition Act, 1894 has already been dismissed by the Land Acquisition Collector. The petitioners did not apply under Section 28-A (3) for referring the matter to the Court. Sub-Section (3) of Section 28-A of the 1894 Act, enables any person who has not accepted the award passed by the Land Acquisition Collector under sub-section (2) may, by written application to the Collector, require that the matter be referred to the Court for re-determination. Admittedly, the petitioners did not avail the aforesaid remedy.

It is evident that the petitioners have been sleeping over their rights during all this time. They filed an application under Section 28-A of the 1894 Act, which was dismissed in the year 2010. This writ petition has been filed in the year 2022.

In the considered opinion of the Court, no writ as prayed for, deserve to be issued in the absence of any statutory or other right as well as

on the ground of an unexplained delay and latches.

Hence, dismissed.

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

March 04, 2022
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(ANIL KSHETARPAL)
JUDGE

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