

115 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-6899-2022 (O&M)
Date of decision: 02.04.2022

ASHWANI KUMAR

....Petitioner

Versus

UNION OF INDIA AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE ANILKSHETARPAL

Present: Mr.Avtar Singh Bhatti, Advocate
for the petitioner.

ANIL KSHETARPAL, J (Oral):

Learned counsel representing the petitioner submits that the present writ petition is required to be decided in terms of decision in “Smt. Dhan Devi and others Vs. Union of India and another,” CWP-6397-2022 decided on 29.03.2022.

Order passed on 29.03.2022 reads as under:-

“The petitioners pray for issuance of a writ in the nature of certiorari to quash order dated 18.10.2021, passed by the Sub-Divisional Magistrate-cum-Land Acquisition Collector while dismissing the application under Section 28-A of the Land Acquisition Act, 1894.

Some facts are required to be noticed.

The notification under Section 4 of the Land Acquisition Act, 1894, was issued on 16.11.1982 to acquire the land for constructing a field firing range. The Land Acquisition Collector announced the award on 19.09.1983. An application under Section 18 of the Land Acquisition Act, 1894, filed by the various other owners, the Reference Court

assessed the market value at the rate of Rs.21,000/- per acre against which the first appeal was dismissed, whereas, in the Letter Patent Appeal the amount has been enhanced. Ultimately, the judgment of the Division Bench of the High Court was upheld by the Supreme Court on 19.01.2011. The petitioners for the first time submitted an application on the basis of judgment passed by the Supreme Court on 04.11.2011. They also filed another application on 12.03.2019.

Section 28A of the Land Acquisition Act, 1894, is extracted 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.]”

It is evident that before an application under Section 28-A of the Land Acquisition Act, 1894, is entertained, the landowner is required to prove that the Reference Court has enhanced the market value and he has filed an application within a period of three months from the date of judgment of the Reference Court while excluding the time taken in the copy thereof. This aspect has been examined in detail in Civil Writ Petition No.8456 of 2020, titled as “Haryana State Industrial and Infrastructure Development Corporation Limited Vs. Shanti and others”.

The Supreme Court while elaborately interpreting has held that the application can be filed within the period of three months from any award passed by the Reference Court.

In the present case, the petitioners did not file application within the time prescribed. The Land Acquisition Collector is not a Court, therefore, it does not have the jurisdiction to condone the delay.

*Keeping in view the aforesaid facts, no ground to
issue the writ is made out.*

Dismissed.

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

Ordered accordingly.

(ANIL KSHETARPAL)
JUDGE

02.04.2022
Monika

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| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable | : | Yes /No |