

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 12023 of 2022

Date of Decision: 30.05.2022

Sameer Rattan

... Petitioner(s)

Versus

State of Punjab and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Arun Takhi, Advocate
for the petitioner(s).

Mr. Nikhil Chopra, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. The petitioner prays for issuance of a writ in the nature of mandamus directing the respondent No.2 to release the amount of enhanced compensation along with interest @ 12% per annum on the delayed payment.

2. On acquisition of the land for the public purpose, the Land Acquisition collector announced the award. The petitioner did not accept the same and applied for referring the matter to the Court under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”). On being referred, the Reference court assessed the amount of market value vide awards dated 03.12.2012 and 01.04.2013. The petitioners did not file any appeal. Whereas the other landowners filed the appeals to this Court.

The various other appeals, filed by the other landowners, were allowed on

07.09.2016. The petitioner claims that he has received a communication

from the Land Acquisition collector intimating that the amount of enhanced compensation has been deposited in his bank account, however, the aforesaid amount is not being released by the Land Acquisition Collector.

3. The learned counsel representing the petitioner relies upon the judgment passed in *A.Viswanatha Pillai v. Special Tehsildar for Land Acquisition AIR 1991 SC 1966* to contend that once the amount has been reassessed with respect to the other co-sharer, the petitioner is entitled to the same amount as the co-sharer.

4. This court has considered the submissions of the learned counsel representing the petitioner, however, finds no merit therein. The judgment passed by the Reference Court qua the petitioner has become final. He did not file any appeal. The 1894 Act grants two opportunities to the landowners to seek reassessment of the compensation. One of the those opportunities is under Section 18, whereas the other is under Section 28A of the 1894 Act. An application under Section 28A of the 1894 Act can only be filed if the landowner does not seek reference under Section 18 of the 1894 Act. Hence, Section 28A of the 1894 Act is not applicable in the present case.

5. Section 18 of the 1894 Act enables the landowner to apply to the Land Acquisition Collector for sending the matter to the Reference Court. The petitioner availed that remedy. Thereafter, if the landowner is not satisfied with the amount assessed by the Reference Court, the remedy is to file an appeal under Section 54 of the 1894 Act. The petitioner did not avail the aforesaid remedy.

6. As regards the judgment relied upon by the petitioner passed in

A.Viswanatha Pillai's case (supra), it is evident that the four brothers were the joint owners of the property. The remaining brothers applied for reference on behalf of A.Viswanatha Pillai. The Court found that it is a coparcenary property and in such particular circumstances, the Court held that A.Viswanatha Pillai is entitled to file an execution petition because the reference, on his behalf, had already been sought by his brothers.

7. Keeping in view the aforesaid facts, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

May 30, 2022
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No