

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(103)

LPA-723-2022 (O&M)
Date of Decision:-13.09.2022.

Jeet Singh and others

.....Appellants

Versus

Land Acquisition Collector-cum-SDM, Chandigarh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Randhir Singh Manhas, Advocate for the appellants.

Mr. Vishnav Gandhi, DAG, Punjab.

Mr. Arvind Seth, Advocate for respondent Nos.2 and 3.

AUGUSTINE GEORGE MASIH, J. (Oral)

CM-1727-LPA-2022

Prayer in this application is for condonation of delay of 10 days in filing the appeal.

For the reasons stated in the application, which is supported by the affidavit of the applicant-appellant No.1, the present application is allowed. Delay of 10 days in filing the appeal stands condoned.

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Challenge in this appeal is to the judgment dated 11.07.2022 passed by the learned Single Judge wherein an application preferred by the appellant under Section 28-A of the Land Acquisition Act, 1894, when not decided by the Collector had approached the learned Single Judge for deciding the said application, as has been preferred by the appellants before the Collector. The learned Single Judge, on the basis of the facts, has proceeded to dismiss the writ petition by observing that the application which has been

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filed under Section 28-A is after an inordinate delay, whereas, as per the provisions of Section 28-A, the application had to be filed within a period of three months from the date of the Award which in this case is of 10.10.2008. There is no provision for condonation of delay in filing the application under Section 28-A (3). The application being barred by time had to be dismissed. Reliance in this regard has been placed upon the judgment of the Hon'ble Supreme Court in **"Mohd. Hasnuddin Vs. State of Maharashtra", (1979) 2 SCC 572**, wherein it has been categorically held that no application after the expiry of limitation is maintainable.

Learned counsel for the appellants has also placed reliance upon the judgment of Hon'ble Supreme Court in the case of **"Narendera and others Vs. State of Uttar Pradesh and others", (2017) 9 SCC 426**, to contend that redetermination on the basis of an Award passed on the basis of enhanced compensation had to be granted to all the land owners whose acquisition is in pursuance to the same proceedings resulting in the passing of the Award by the Collector. Article 14 of the Constitution of India has also been invoked for this by asserting that there cannot be differential treatment qua the land owners whose lands have been acquired depriving them of their valuable right. Mere fact that the compensation as has been claimed by some of the villagers at a lesser rate than the compensation ultimately determined to be the fair compensation, that would not be a ground for denying such persons appropriate and fair compensation, when it has been provided for under the Land Acquisition Act, 1894 by giving responsibility to the Collector who is bound to assess the fair compensation. On this basis, it has been prayed that the order passed by the learned Single Judge cannot sustain and appeal deserves to be allowed.

This contention of the learned counsel for the appellants cannot

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be accepted in the light of the law which has been laid down and has been relied upon by the counsel for the State of Punjab. Reference needs to be made to the judgment of Hon'ble Supreme Court in the case of **CWP-4885-2018** decided on 24.04.2018 titled as **"Ramsinghbhai (Ramsanghai) Jerambhai Vs. The State of Gujarat and another"**, wherein Para 3 of the said order, it has been stated as follows:-

"3. Section 28A(1) of the Act reads as follows:

"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."

It is clear from the opening words of the provision that the redetermination under Section 28A is available only in respect of an "Award" passed by the "court" under Part III of the Act,

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comprising Sections 18 to 28A (both inclusive). The "court" referred to in Section 28A of the Act is the court as defined under Section 3(d) to mean "principal civil court of original jurisdiction...". Thus, the judgment of the appellate court is not within the purview of Section 28A. It is also to be noted that the appellate courts under Section 54 are under Part VIII of the Act whereas the redetermination is only in respect of the Award passed by the Reference Court under Part III of the Act. (See Jose Antonio Cruz Dos R. Rodriguese & another v. Land Acquisition Collector & another). In its recent judgment in Bharatsing and others v. The State of Maharashtra and others, this Court has surveyed the decisions on this issue and reiterated the legal principle".

The said judgment has been passed by three Judges' Bench, which is binding on this Court and has to be followed.

In the light of the law which has been settled above, we have no option but to uphold the judgment passed by the learned Single Judge and dismiss the present appeal.

The present appeal, therefore, stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

September 13, 2022.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No