

LPA No.782 of 2022 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.782 of 2022 (O&M)

Date of decision : 15.09.2022

Satpal Singh and others

.....Appellants

VERSUS

State of Punjab and others

....Respondents

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

Present: Mr. Lalit Singla, Advocate
for the applicant – appellants.

Mr. Vishnav Gandhi, DAG, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-1861-LPA-2022

Prayer in this application is for condonation of delay of 21 days in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit of appellant No.1 – Satpal Singh, delay of 21 days in filing the appeal is condoned.

The application stands allowed.

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Challenge in this appeal is to the judgment passed by the learned Single Judge, dated 18.07.2022, whereby the writ petition preferred by the appellants praying for a writ of *mandamus* directing the

respondent – Collector to release the enhanced amount of compensation as granted by the High Court in Regular First Appeal No.2999 of 2013, decided along with connected appeals on 06.05.2016.

2. It is asserted that the dismissal of the application under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act') by the Collector being not maintainable in the light of the fact that the learned Single Judge, on the one hand is holding that the application could not have been entertained by the Collector keeping in view the fact that the period of 90 days has expired from the date of award whereby enhancement had taken place and on the other hand, it has been held that as per the provision of Section 28-A of 1894 Act, the enhancement could have been granted by giving the benefit of this provision only on reference being allowed in favour of the landowner where there was none. This being contradictory, the order passed by the learned Single Judge is not sustainable. Counsel further contends that the Court has, in its conclusion, come to a finding that there is no remedy available to the appellants and therefore, the remedy of writ petition would be the appropriate remedy and thus, the writ petition should have been entertained and the relief as claimed for enhanced compensation as has been granted in the Regular First Appeal preferred by the other landowners, whose land was also acquired along with that of the appellants, should have been granted to them. He, therefore, submits that the judgment passed by the learned Single Judge deserves to be set aside.

3. We have considered the submissions made by the learned

counsel for the appellants and with his assistance have gone through the pleadings as well as the judgment passed by the learned Single Judge but do not find ourselves in a position to accept the submissions as has been sought to be contended.

4. The facts have been detailed by the learned Single Judge by referring to them wherein the award was passed by the Land Acquisition Collector, Patra, on 19.08.2008, whereby an amount of compensation was assessed. After passing of the award, some of the land-owners had made a Reference under Section 18 of the 1894 Act. In the said Reference, the Court did not accept the prayer for enhancement and dismiss the same. On dismissal of the Reference, Regular First Appeal No.2999 of 2013 was preferred by the other land-owners before the High Court which came to be decided on 06.05.2016 when the market value of the acquired land was enhanced from ₹5,25,000/- per acre to ₹15,95,600/- per acre. In the light of the said decision dated 06.05.2016, when appellants came to know about the said judgment having been passed in the month of January, 2018, they have preferred an application under Section 28-A of the 1894 Act on 25.04.2018. This application has been dismissed by the Collector vide order dated 08.06.2018 by asserting that the same is beyond the period of limitation as prescribed and enhancement cannot be granted in the light of the fact that the limitation has expired as they have not approached the Collector within the period of 90 days as provided for under Section 28-A. Although an observation was also made that they are entitled to the said benefit.

5. This, when challenged before the learned Single Judge, two things have come out. First, with reference to Section 28-A of the 1894 Act, which deals with re-determination of the amount of compensation on the basis of the award of the reference Court, the learned Single Judge has come to a conclusion, on the basis of the judgment passed by the Hon'ble Supreme Court in **Union of India and another Vs. Pardeep Kumari and others** (1995) 2 SCC 736 and **Jose Antonia Cruz Dos R. Rodriguese and another Vs. Land Acquisition Collector and another** (1996) 6 SCC 746, that the term 'The Court', which has been referred in Section 28-A is the Reference Court alone and not the subsequent Courts either in appeal before the High Court or in the SLP before the Hon'ble Supreme Court. Since the entitlement was only limited to the extent of Reference Court where the market value of the land has has been assessed at a higher rate than that of the Collector, the benefit of Section 28-A would be available, therefore, the appellants were not entitled to the benefit of the judgment passed by this Court in Regular First Appeal No.2999 of 2013.

6. Second, with regard to the application under Section 28-A, the fact remains that the said application itself was not maintainable as there has been no enhancement by the Reference Court with regard to the amount of compensation granted by the Collector.

7. Further, this Court had on an earlier occasion dealt with the same issue in LPA No.689 of 2022, titled as 'M/s Brijbasi Project Pvt. Ltd. and others Vs. Haryana Shehri Vikas Pradhikaran and others', decided on 29.08.2022, where this Court, following the three Judges' Bench judgment

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of the Hon’ble Supreme Court in the case of Civil Appeal No.4885 of 2018 decided on 24.04.2018, titled as 'Ramsinghbhai (Ramsanghai) Jerambhai vs. The State of Gujarat and another', had held that the land-owners cannot be granted the benefit of enhanced compensation after a period of limitation prescribed under the Act itself.

8. We, on these counts, do not find any illegality in the judgment passed by the learned Single Judge and therefore, finding no merit in the present appeal, dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

15.09.2022

Harish

(ALOK JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No