

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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LPA-1051-2022

Date of decision: 23.11.2022

SANDEEP KUMAR AND OTHERS

.....APPELLANTS

Versus

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Ketan Antil, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J.

This appeal has been preferred by the appellants challenging the judgment passed by the learned Single Judge dated 28.10.2022 vide which the writ petition preferred by them praying for issuance of a writ of mandamus directing the Land Acquisition Collector, HUDA, Rohtak, to refer the petition under Sections 30 and 31 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') to the Court.

What has been asserted by the appellants is that an application dated 15.04.2013 under Sections 30 and 31 of the 1894 Act had been preferred by them after the award had been passed by the Reference Court under Section 18 in the case of other land owners whose land was acquired along with that of the appellants wherein notification under Section 4 was issued on 17.05.1990 and the award was announced by the Collector on

12.05.1993. Appellants assert that their predecessor-in-interest although was not the owner of the land but was in cultivating possession thereof and, therefore, was entitled to apportionment of the amount of compensation with that of the land owners. Assertion has been made that the application of the appellants being pending since the year 2013, they were entitled to the issuance of a writ of mandamus directing the Land Acquisition Collector to decide the said application and make a reference thereof to the Court for decision under Sections 30 and 31 of the 1894 Act.

Learned counsel for the appellants submits that mere delay on the part of the appellants cannot be a ground for rejection of their claim by the Writ Court. He asserts that the Collector, the moment an application is moved under Sections 30 and 31 of the 1894 Act, is required to make a reference to the Court for decision thereon. Rejection of the writ petition by the learned Single Judge on the ground of delay and laches, therefore, is unsustainable and fixing a period of three years as the limitation for entertaining such an application, as has been preferred by the appellants before the Collector under Sections 30 and 31 of the 1894 Act, cannot sustain and deserves to be set aside.

Having considered the submissions made by the learned counsel for the appellants, we are unable to accept the said contention, as has been raised.

As per the admitted facts, award was announced by the Land Acquisition Collector on 12.05.1993. According to the claim, as projected by the appellants, their predecessor-in-interest, namely, Late Sh. Hoshiara, although was not the owner of the land but was in cultivating possession of the same which was acquired. Hoshiara, predecessor-in-interest of the

appellants, was paid an amount of compensation for the acquired land being *Gair Marusi*. The owner of the land preferred a reference under Section 18 of the 1894 Act for enhancement of compensation. The reference was allowed by the learned Additional District Judge, Sonapat vide Award dated 06.08.2004. Regular First Appeal was preferred by the original land owners for further claim.

It is an admitted position that the predecessor-in-interest of the appellants did not prefer reference under Section 18 of the 1894 Act nor was Regular First Appeal preferred by him or the appellants. For the first time, an application dated 15.04.2013 under Sections 30 and 31 of the 1894 Act was preferred by the appellants before the Land Acquisition Collector and that too, after the decision of the Regular First Appeal on 21.09.2010 as was preferred by the land owners.

It would not be out of way to repeat here that the predecessor-in-interest of the appellants was not the owner of the land but was only in cultivating possession thereof. The benefit, therefore as has been claimed by the appellants, suffers from unexplained delay and latches as the limitation for moving an application under Section 30 or 31 of the 1894 Act would be 3 years from the date of passing of the award by the Reference Court. Reference Court has passed the award on 06.08.2004 and the application under Sections 30 and 31 of the 1894 Act was preferred on 15.04.2013. This being after almost 9 years, the learned Single Judge has rightly proceeded to dismiss the writ petition where mandamus was sought for directing the Land Acquisition Collector to decide the petition filed under Sections 30 and 31 of the Land Acquisition Act, 1894.

The order, as passed by the learned Single Judge, being in

accordance with law do not call for any interference by this Court and, therefore, the appeal deserves dismissal.

Ordered accordingly.

(AUGUSTINE GEORGE MASIH)
JUDGE

November 23rd, 2022
PJ

(VIKRAM AGGARWAL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>