

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

**CWP No.8630 of 2019 (O&M)  
Date of Decision: 07.02.2023**

Kuljit Singh

..... Petitioner

*Versus*

State of Punjab and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present:- Mr. Jasinder Singh Thind, Advocate for the petitioner.

Mr. Sandeep Chopra, DAG, Punjab for respondent No.1.

Mr. Kushagra Mahajan, Advocate for respondent No.2.

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**MAHABIR SINGH SINDHU, J.**

Present writ petition has been filed under Article 226 of the Constitution for quashing of the impugned order dated 20.12.2018 (P-7), whereby Land Acquisition Collector, Amritsar Improvement Trust, Amritsar-respondent No.2 rejected the application for re-determination of the amount of compensation in terms of section 28-A of the Land Acquisition Act, 1894 (*for short 'Act of 1894'*).

**(2)** Brief facts:-

It transpires that State of Punjab, Department of Local Government while exercising powers under section 36 of the Punjab Town Improvement Act, 1922 (*for short "Act of 1922"*) intended to acquire land measuring 340 acres, vide Notification dated 06.01.1995, on Amritsar-Jalandhar G.T. Road and

it was followed by the declaration dated 17.01.1996 under section 41 thereof. Respondent No.2 announced the award under section 11 of the Act of 1894 on 16.01.1998 (P-4). Some of the co-sharers namely, Gurbachan Singh, Tarlok Singh, Jagjit Singh sons of Joginder Singh, along with others, filed applications under section 18 of the Act of 1894 for enhancement of compensation, which were rejected by the Court of District Judge-cum-Land Acquisition Claim Tribunal, Amritsar Improvement Trust, Amritsar (*for short 'Tribunal'*), vide order dated 05.08.2011. Above said co-sharers challenged the rejection order by way of various writ petitions, including CWP No.18468 of 2013, which were allowed on 23.07.2014, whereby cases were remanded to the Tribunal for fresh adjudication. The Tribunal passed an award dated 23.12.2016, thereby allowing the reference and enhanced the compensation of co-sharers to the extent of 20% over and above the award made on 16.01.1998.

In view of the above factual position, father of the petitioner, namely, Surjit Singh filed an application under section 28-A of the Act of 1894 on 05.05.2017 for re-determination of the amount of compensation in terms of the award dated 23.12.2016; but the same has been dismissed while passing the impugned order dated 20.12.2018.

Hence, present writ petition.

(3) It is contended by learned Counsel for the petitioner that respondent No.2 has rejected the application only on the premise that certified copy of the award was not attached with the application under section 28-A of the Act of 1894.

(4) Although, learned Counsel for respondent No.2 is not in a position to justify the reasoning assigned in the impugned order; but he tried to defend

the same while submitting that application of the petitioner was liable to be dismissed being time barred.

(5) Heard learned Counsel for the parties and examined the paper-book.

(6) From perusal of the impugned order, it is quite evident that claim of the petitioner has been rejected solely on the ground that certified copy of the award was not attached with the application and for reference, para No.6 of the impugned order is reproduced below:-

*“As required mandatorily under Section 28-A of the Act, ibid, you have not enclosed the certified copy of the judgment/award by the Ld. Tribunal, rather attached with your above application a photostat copy of the award which constitutes contravention of statutory provisions and is not acceptable and also which makes you un-entitled for the relief sought by you, as the original certified copy has already been used by the concerned person by virtue of the same your application has been rendered absolutely incomplete and totally deserves summarily rejection.*

*From the facts as explained supra, your case as submitted by you, does not meet the mandatory requirements of Section 28-A of the Act ibid, and hence you are not entitled to the enhanced compensation as per recital enumerated above. I, therefore, have been left with no alternative except to reject your application under reference, and accordingly the same is hereby rejected in toto.”*

(7) Before proceeding further, it is necessary to recapitulate section 28-A of the Act of 1894 and the same reads 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, require 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.”*

From plain reading of the aforesaid provision, it is nowhere discernible that for re-determination of the amount of compensation under section 28-A (*ibid*), there would be any requirement of attaching a copy of the award, much less to say the certified copy thereof. Reason is obvious that entire record of the acquisition proceedings is already available with the Land Acquisition Collector and moreover, there is no mandate in law to that effect.

(8) Even on repeated asking by this Court, learned Counsel for respondent No.2 has failed to show any legal provision that it would be obligatory for the “person interested” to attach certified copy of the award along

with the application under section 28-A and failure thereof, shall result into dismissal of the same, summarily.

(9) Although, learned Counsel for respondent No.2 tried to raise the plea that award on the basis of which re-determination was sought had been passed on 23.12.2016 and the application under section 28-A was filed by father of the petitioner on 05.05.2017 i.e. beyond the period of three months and as such, the same ought to have been dismissed being time barred. However, the submission deserves to be rejected outrightly in view of the fact that no such reasoning has been assigned by respondent No.2 while passing the impugned order.

(10) In view of the facts and circumstances, discussed hereinabove, there remains no doubt that respondent No.2 has rejected the claim of petitioner on wholly erroneous ground; thus, irresistible conclusion would be that either the Officer did not open the statute or he has misconstrued the same for reason(s) best known to him.

Be that as it may, the order impugned is indefensible in law.

(11) Consequently, the writ petition is allowed; the impugned order dated 20.12.2018 is quashed and set aside.

Respondent No.2 is directed to decide the application dated 05.05.2017, filed under section 28-A of the Act of 1894, afresh, in accordance with law by passing reasoned order within six months from the receipt of certified copy of this order. Petitioner shall be entitled for costs of Rs.25,000/- (Twenty Five Thousand Only) to be paid by respondent No.2.

(12) It is clarified that the observations, made hereinabove, shall not be construed as an expression of opinion on the merits of controversy in any

manner while deciding the application under Section 28-A (*ibid*) by the Land Acquisition Collector.

February 7<sup>th</sup>, 2023  
Gagan

( MAHABIR SINGH SINDHU )  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable        | Yes |