

308

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

**CWP No. 8246 of 2023 (O&M)
Date of Decision: 12.07.2023**

Satish Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Abhinash Jain, Deputy Advocate General, Haryana
for respondent Nos. 1 & 2.

Mr. Pritam Singh Saini, Advocate
for respondent No. 3-HSVP.

HARKESH MANUJA, J. (ORAL)

By way of present petition, prayer has been made for issuing directions to respondent No. 1 to decide the reference petition filed at the instance of petitioner, titled “*Satish Kumar Versus State of Haryana & another*”, invoking Section 28-A of the Land Acquisition Act, 1894 (for short “the Act”) seeking re-determination of compensation.

[2] During the pendency of present petition, respondent No. 2 / Land Acquisition Collector, Panchkula (for short “the Collector”), vide order dated 16.05.2023, decided the aforementioned petition under Section 28-A of the Act. The aforesaid order has been placed on record with reply dated 19.05.2023, filed at the instance of respondent Nos. 1 & 2, as

Annexure R-2/1 and the operative part thereof reads under:-

“

I have carefully gone through the case file and arguments advanced by the petitioner and office record pertaining to the case and found that this case do not fulfill all the requirements of under Section 28-A of the Land Acquisition Act. The application under section 28-A is not within limitation against the award/judgment of the court. Further, the perusal of record also transpires that Lakhmi Chand is shown as owner of acquired land and the petitioner had filed reference under Section 28A on the basis of registered Will of Lakhmi Chand dated 19.11.2012. However, no succession certificate or any orders from competent court of law has been placed on record by the petitioner which creates his title and the property being the LR of the Lakhmi Chand during the pendency of present petition. ”

[3] I have heard learned counsel for the parties and gone through the paper-book.

[4] A perusal of the above mentioned order dated 16.05.2023 reveals that the petition filed under Section 28-A of the Act has been rejected due to the following reasons:-

- (i) that the case of petitioner do not fulfill all the requirements as per Section 28-A of the Act;
- (ii) that the application under Section 28-A of the Act is not within limitation;
- (iii) that the petitioner has not produced / placed on record succession certificate or orders passed by the competent court of law based on registered Will dated 19.11.2012, whereby they inherited the estate of deceased-Lakhmi Chand, including the land in question which form the part of acquisition.

[5] In fact, the Collector, while carrying out adjudication upon the proceedings under Section 28-A of the Act, is not supposed to call upon the landowner(s) for production of succession certificate, but definitely can ask for their verification being successors while making disbursement of compensation, through the concerned revenue authorities. Moreover, no details have been mentioned in the order (*supra*) as to which requirement, as contemplated under Section 28-A of the Act, has not been fulfilled by the landowner(s). Further, while rejecting the reference petition being barred of limitation, no details whatsoever have been recorded to support of the said findings.

[6] In view of the discussion made hereinabove, the order dated 16.05.2023 passed by the Collector during the pendency of present writ petition, lacking sound reasons, is hereby quashed and set aside.

[7] Respondent No. 2 is directed to pass fresh order, as per law, upon the application dated 02.06.2014 under Section 28-A of the Act, moved by the petitioner. The aforesaid exercise be carried out within a period of three (03) months from today after affording opportunity of hearing to the petitioner-landowner.

[8] Petition is **disposed off**, accordingly.

July 12, 2023
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No