

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

(118)**CR No.4046 of 2023****Date of Decision: 20.07.2023**

Nirmal Singh

.....Petitioner

Versus

State of Punjab and others.....

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gagneshwar Walia, Advocate, for the petitioner.

Mr. Athar Ahmad, DAG, Punjab.

HARKESH MANUJA, J.(ORAL)

1. By way of present revision petition, the short prayer made herein is for issuance of directions to respondent No.2 to revive the petition under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”) filed at the instance of petitioner/land owner which vide order dated 16.02.2023 was ordered to be kept pending till the decision of this Court in RFAs filed at the instance of other land owners.

2. Briefly stating, the land of the petitioner, falling in revenue estate of Village Pholariwal, Tehsil and District Jalandhar, came to be acquired in pursuance to the notification dated 21.04.2004 issued under Section 4 followed by Notification dated 22.11.2004 issued under Section 6 of the Act besides assessment of compensation made vide Award No.1 dated 31.03.2005 by respondent No.2.

3. Though, no reference under Section 18 of the Act was invoked at the instance of petitioner/land owner however, relying upon an Award dated 01.12.2009 passed by the reference Court arising out of the reference filed at the instance of other land owners relating to the same acquisition proceedings, a petition under Section 28A of the Act was filed by the petitioner. The same was entertained by respondent No.2 and was ordered to be kept pending till the adjudication upon Regular First Appeal by this Court regarding the same acquisition proceedings. The operative part of the order dated 15.09.2010 passed by respondent No.2 is reproduced hereunder:

*“On the other hand I have examined the reply filed by the Punjab
Water Supply and Sewerage deptt. And also perused the*

judgment of Hon'ble Supreme Court of India in JT 1994(7)-SC-37, in Babua Ram and others Vs. State of UP and another, Civil Appeal No.565 of 1994. No doubt, both the applicants are entitled for all the benefits on the basis of judgment dated 01.12.2009 given by the civil Court, but keeping in view the above judgment of the Hon'ble Supreme Court of India, both the applications are liable to be kept pending till the decision of the Hon'ble High Court in the appeal filed against the order dated 1.12.2009. So both the applications are order to be kept pending till the decision of the High Court in the appeal."

4. It is the case of the petitioner that the RFA No.3477 of 2010 pertaining to the same acquisition seeking enhancement at the instance of other similarly situated land owners came to be decided by this Court on 12.04.2016, whereby, the compensation was enhanced to Rs.63,75,606/- per acre besides grant of other benefits on account severance charges and interest etc. Based thereupon, the petitioner moved an application before respondent No.2 for revival of his petition under Section 28-A of the Act, but to no effect. Faced with it, the petitioner moved an execution application based on an Award passed in favour of his co-sharer, however, the same got dismissed vide order dated 16.02.2023, recording that the same was not maintainable as the petitioner had neither invoked Section 18 nor Section 28-A of the Act. It is the aforesaid order which has been impugned by way of present revision petition besides making a prayer for issuance of directions to respondent No.2 for revival of the petition filed under Section 28-A of the Act at the instance of petitioner.

5. At this stage, learned counsel for the petitioner restricts his prayer only as regards the revival of the aforementioned petition filed under Section 28-A of the Act.

6. Upon advance notice, learned State counsel submits that having perused the paper book, he is not in a position to oppose the limited prayer made on behalf of petitioner.

7. I have heard learned counsel for the parties and have gone through the paper book. I find substance in the submissions made on behalf of petitioner.

8. A perusal of the order dated 15.09.2010 passed by the respondent

No.2 shows that the right of the petitioner as regards the maintainability of his petition under Section 28-A of the Act besides his entitlement qua enhancement of compensation was found to be meritorious, however, the said application was kept pending so as to await the decision of this Court in appeals filed at the instance of other land owners pertaining to the same acquisition seeking further enhancement. As a matter of fact, the appeals filed at the instance of other land owners already stand allowed vide judgment dated 22.04.2016 passed in RFA No.3477 of 2010 (Annexure A-2) whereby compensation was enhanced to Rs.63,75,606/- per acre.

9. Accordingly, finding merit in the limited submission made on behalf of the petitioner at this stage, respondent No.2 is directed to proceed further with the adjudication upon the petition filed under Section 28-A of the Act, moved at the instance of petitioner and dispose of the same within a period of 3 months from today. It is however, made clear that observation made by the executing Court to the effect that petitioner did not invoke any reference under Section 18 or 28-A of the Act being against the factual position in the present case would not be treated as an impediment by respondent No.2 while exercising its jurisdiction in the matter.

10. The present writ petition is disposed of in aforesaid terms.

11. The pending applications, if any, shall stand disposed of.

(HARKESH MANUJA)
JUDGE

20.07.2023
anil

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No