

[1]

CWP No. 23474 of 2023 (O&M)

Neutral Citation No. 2023:PHHC:134347

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

**Civil Writ Petition No. 23474 of 2023 (O&M)
Date of Decision: 16.10.2023**

Rajender Singh and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Parkash Chahar, Advocate
for the petitioners.

HARKESH MANUJA, J.

The petitioners, by way of present petition, seek quashing of order dated 11.01.2019 (**Annexure P-3**) passed by respondent No.2— District Revenue Officer-cum-Land Acquisition Collector, Jhajjar (for short “LAC”), whereby their application, filed under Section 28-A of the Land Acquisition Act, 1894 (for short “the Act”), was dismissed.

[2] The ground for dismissal of the application under Section 28-A of the Act is that the same was filed on the basis of judgment dated 04.02.2016 passed by this Court in **RFA No. 266 of 2012**, titled **“Joginder Singh Tokash Versus State of Haryana and others”**, which stood challenged before the Hon’ble Supreme Court, and ultimately, vide order dated 05.09.2017 passed in SLP No. 8757 of 2016, titled

“Arawali Power Company Pvt. Ltd. Versus Joginder Singh Tokash”,
the amount of Rs. 29,00,400/- per acre, as enhanced / granted by this Court, was reduced to Rs. 25,00,000/- per acre of the acquired land. To substantiate the dismissal of the application, the LAC has placed reliance upon the judgment dated 24.04.2018 passed by the Hon’ble Supreme Court in ***Civil Appeal No. 4885 of 2018***, titled ***“Ramsinghbhai (Ramsinghbhai) Jairambhai and others Versus State of Gujarat and others”***.

[3] At the outset, it is pointed out that similar controversy has already been decided by this Court on 24.01.2019 in a writ petition bearing ***CWP No. 1199 of 2019***, titled ***“Mahabir and another Versus State of Haryana and others”***, dismissing the same. Relevant portion thereof read as under:-

“ It is not disputed that the land was acquired vide notification dated 16.01.2007 and uniform rate of Rs.16 lakhs per acre was granted by the LAC, for the four villages for which different awards had been passed. The purpose of acquisition was for the construction of Thermal Power Project by the Arawali Power Corporation Ltd. The Reference Court did not grant any enhancement and it is only this Court, in the above-said RFA, the market value of the acquired land was fixed @ Rs.29,00,400/- per acre.

The said judgment was modified in Arawali Power Company Pvt. Ltd. Vs. Joginder Singh Tokash & others 2017 (4) RCR (Civil) 577 and the market

value has been fixed @ Rs.25,00,000/- per acre on 05.09.2017.

Bolstered by the decision of this Court, application under Section 28-A was filed and the same had been dismissed. The Apex Court in Ramsinghbhai (supra) has restated the earlier judgments and framed the following question:

“2. Whether an application under Section 28A of the Land Acquisition Act, 1894 (for short “the Act”) for redetermination of the compensation can be filed within a period of 3 months from the date of judgment of the High Court or Supreme Court passed in appeal under Section 54 of the Act is the question that arises for consideration in this case.”

Resultantly, it was held that the appellant is only entitled for the relief in terms of Section 28-A passed on the award of the Reference Court and not any enhancement which has been passed in the appeal. Relevant para reads as under:

“5. What the appellant seeks is redetermination of compensation under the Act in terms of the judgment of the High Court passed under Section 54 of the Act. In view of the settled legal position which we have explained above, the appellant is not entitled to such a relief; his entitlement, if any, is only in terms of Section 28A of the Act based on the award of the Reference Court.

6. *The appeal is accordingly dismissed. Pending application (s), if any, shall stand disposed of. No costs.”*

Resultantly, the order passed by the LAC does not suffer from any infirmity, which would warrant interference by this Court and accordingly, the present appeal is dismissed in limine.

Needless to say that if the petitioners have any other remedy for getting compensation on the same terms, it is always open to them to approach the appropriate forum and the orders passed herein would not, as such, bar the petitioners from claiming the said relief. ”

[4] In view of the above, present writ petition is **dismissed** in terms of decision dated 24.01.2019 passed in ***Mahabir’s case (supra)***, with liberty to the landowners to seek their remedy in accordance with law.

October 16, 2023
'dk kamra'

(HARKESH MANUJA)
JUDGE

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