



123

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-2125-2025 (O&M)

Date of Decision: 24th July, 2025

STATE OF HARYANA

.....Appellant(s)

V/s.

SURESH

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present Mr. Bhupender Singh, Addl. A.G., Haryana, for the appellant.

Mr. Ajay Jain, Advocate for the respondent.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This Appeal is by the State of Haryana challenging the judgment dated 21.08.2023 of learned Single Bench passed in CWP-3637-2020, whereby claim of the respondent/writ petitioner for higher compensation under Section 28-A of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”) has been allowed.

2. Relevant facts giving rise to the cause for the respondent/writ petitioner to approach this Court are noticed in the impugned judgment of the learned Single Bench in paragraphs 2 and 3, which are reproduced as under:-

“2. Briefly stated, facts of the case are that notification under Section 4 read with Section 17 of the Land Acquisition Act, 1894 (hereinafter called as ‘the Act’) was issued on 11.02.2010 for acquisition of land including that of petitioners for public purpose, followed by notification under Section 6 thereof on 19.02.2010. Land Acquisition Collector, Gurugram (for short “LAC”) announced the Award on 14.06.2010, assessing market value @ Rs. 60 lakhs per acre for all types of land. Few other landowners aggrieved with the quantum of compensation amount, filed Reference Petition under Section 18 of the Act wherein they were held entitled to compensation



@ Rs.1,39,87,202/- per acre along with all statutory benefits, vide Award dated 30.07.2014.

3. Petitioner not having availed the remedy of Section 18 of the Act, filed application under Section 28-A thereof before respondent No.2 for re-determination of compensation. Vide order dated 11.08.2015, the petitioner along with others were held entitled to receive compensation in terms of decision dated 30.07.2014 rendered by the Reference Court, although, at that point in time appeal filed by other landowners against the amount of compensation assessed by the Reference Court, was pending before this Court. Later, this Court vide its decision dated 27.05.2016 held the landowners of Village Dhorka, District Gurgaon to be entitled for compensation at a uniform rate of Rs.2,92,98,240/- per acre along with all statutory benefits. Subsequently, both the landowners as well as the State approached the Hon'ble Apex Court and vide judgment dated 05.09.2017, Hon'ble Apex Court modified the Award/Judgment dated 27.05.2016 and imposed a cut of 15% towards development.”

3. It transpires that the claim for higher compensation under Section 28-A of the Act was based upon an award made by the Reference Court, in respect of similar land covered by the same notification and award. The claim of the respondent was considered by the Collector vide order dated 11.08.2015, when the matter relating to the legality of award was awaiting consideration before the Hon'ble Supreme Court.

4. Learned Single Bench has correctly opined that once the award was engaging the attention of the Supreme Court, the appropriate course available for the Collector was to have stayed his hands and defer the consideration of application under Section 28-A of the Act. This position in law stands settled under the judgment of the Supreme Court in **Babua Ram and Others Vs. State of Uttar Pradesh and Another** ; (1995) 2 SCC 689.



5. It is undisputed that the award which was the basis of claim under Section 28-A has been adjudicated finally by the Supreme Court vide judgment dated 05.09.2017. The respondent therefore challenged the determination made by the Collector under Section 28-A, on 11.08.2015, on the ground that the determination of the Collector was not as per law. Award was not as per the adjudication finally made by the Hon'ble Supreme Court, in respect of the award on the basis of which the claim itself was instituted. It is this claim of the respondent which has been allowed by the learned Single Bench. Since, the Writ Petition was filed in the year 2020, learned Single Bench has denied the benefit of interest between 2017 to 2020. Aggrieved by this judgment, the State of Haryana is before us.

6. Learned counsel for the State primarily submits that the Writ Petition ought not to have been entertained and the proper course for the writ petitioner was to have approached the Civil Court by making a reference under Section 28-A (3) of the Act.

7. Learned counsel for the respondent, however, submits that no useful purpose would have been served in relegating the tenure holder to avail of remedy of reference when the award was finally settled by the Supreme Court. It was otherwise not disputed that the land of the respondent was identical in its potentiality to the land of which award was made by the Supreme Court.

8. Though, the alternative remedy of making reference to a person aggrieved by determination under Section 28-A (3) of the Act is available, and ought to be pursued, but in the peculiar facts of the present case, we concur with the view taken by the learned Single Bench that a Writ Petition



could have been entertained so as to grant appropriate relief to the respondent in terms of final adjudication made by the Hon'ble Supreme Court.

9. Section 28-A of the Act is otherwise premised on the principles of equality inasmuch as the tenure holder, whose land with similar potentiality has been acquired, ought not be denied compensation which has been awarded in favour of the other persons.

10. In the facts of the present case, the State does not dispute that the land of the respondent was identical to that of other in whose favour the award was made ultimately by the Supreme Court. The Collector otherwise was not justified in deciding the application under Section 28-A of the Act when the award was still subjudiced.

11. In such circumstances, we are not inclined to interfere with the judgment of the learned Single Bench as we find that the learned Single Bench has done substantial justice in the matter. Accordingly, the Appeal is dismissed.

12. All pending applications, if any, in this case are disposed of accordingly.

**[ASHWANI KUMAR MISHRA]
JUDGE**

**[KULDEEP TIWARI]
JUDGE**

July 24, 2025

Ess Kay

| | | | | |
|------------------------------------|---|------------|---|-----------|
| <i>Whether speaking / reasoned</i> | : | <i>Yes</i> | / | <i>No</i> |
| <i>Whether Reportable</i> | : | <i>Yes</i> | / | <i>No</i> |