

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**CMPMO No.50 of 2018.**

**Date of decision : 31<sup>st</sup> January, 2018.**

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**Amar Chand and others** **.....Petitioners.**

***Versus***

**State of Himachal Pradesh and another** **.....Respondents.**

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**Coram**

***The Hon’ble Mr. Justice Tarlok Singh Chauhan, Vacation Judge.***

**Whether approved for reporting? No**

**For the Petitioners : Mr.B.S.Atri, Advocate.**

**For the Respondents : Mr.Rajat Chauhan, Law Officer.**

**Mr.Pardeep Bhardwaj, Executive  
Engineer, HPPWD, Shimla  
Division No.1, present in person.**

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**Tarlok Singh Chauhan, Judge (Oral).**

This order will dispose of a petition filed by the petitioners under Article 227 of the Constitution of India seeking directions to respondent No.1 to release the amount of compensation awarded in their favour in an application filed under Section 28-A of the Land Acquisition Act (for short ‘Act’).

2. It is not in dispute that the land of the petitioners along with other land owners was acquired by the respondents for construction of ‘Sanjauli-Dhalli Bye Pass Road’ and compensation at an uniform rate of Rs.80,000/- per bigha was awarded in their favour vide Award

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***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

No.26/2004 dated 18.12.2004.

3. Some of the land owners excluding the petitioners preferred references before the learned District Judge, who enhanced the compensation by awarding uniform rate of Rs.5,32,416/- per bigha, regardless the nature of the category of the land.

4. The award passed by the learned District Judge was assailed by the land owners as well as by the State Government and this Court vide its judgment dated 23.03.2016 further enhanced the compensation by awarding a sum of Rs.9,05,107/- per bigha along with other statutory benefits.

5. The petitioners immediately upon references having been decided by the learned District Judge preferred applications under Section 28-A of the Act which were kept pending in view of the pendency of the appeal(s) before this Court.

Two important developments took place after the decision by this Court.

6. The respondents being aggrieved by the award passed by this Court preferred SLPs (CC No.5123-5124 of 2017 titled 'State of H.P. versus Shankari Devi) before the Hon'ble Apex Court, however, the same was dismissed on 20.03.2017. Another SLP (CC No.4473-4474/2017 titled State of H.P. versus Geeta Devi and others) was also subsequently dismissed on 11.12.2017 along with SLP No.(C) No.007752/2017 and SLP (C) (CC No.005126/2017).

7. However, before dismissal of the SLPs filed in Geeta Devi's case, the application filed by the petitioners under Section 28-A of the Act titled 'Amar Chand and others versus State of Himachal

Pradesh and others' came to be allowed on the basis of the judgment passed by this Court and the petitioners was awarded compensation at the rate of Rs.9,05,107/- per bigha along with statutory benefits.

8. It is not in dispute that the awarded amount stands deposited on 31.08.2017, but the same is not being released only on the pretext that the respondents have received a communication (Annexure P-5 dated 17.11.2017) whereby they have been directed not to release the amount in question on the pretext that the counsel for the respondents intends to file review petition against the aforesaid order dated 20.03.2017 and also that in the case of Geeta Devi the interim stay is still continuing.

I have heard the learned counsel for the parties and gone through the material placed on record.

9. It is not in dispute that the letter on the basis of which award amount is not being released in favour of the petitioners is dated 17.11.2017, whereas, the appeal filed by the respondents in Geeta Devi's case has been dismissed subsequently on 11.12.2017.

10. That apart, there is nothing on record to indicate that a review petition has infact been filed by the respondents against the order passed by the Hon'ble Apex Court on 20.03.2017 in Shankari Devi and other connected cases.

11. Above all, it is more than settled that mere filing of appeal or revision does not operate as a stay on the decree or order appealed against nor on the proceedings in the Court below.

12. In such circumstances, this Court has no difficulty to conclude that the action of the respondents in withholding the award

amount that too merely on the pretext of a letter is not only unjustified, but is illegal and without jurisdiction.

13. Having said so, I find merit in this petition and the same is allowed and respondent No.1 is directed to release the awarded amount of compensation along with all statutory benefits in favour of the petitioners within one week from receipt of certified copy of this order.

14. The petition is disposed of in the aforesaid terms, leaving the parties to bear their own costs. Pending application, if any, also stands disposed of.

Copy 'dasti'.

**31<sup>st</sup> January, 2018.**  
(krt)

**(Tarlok Singh Chauhan),**  
**Vacation Judge.**