
(1984) 02 P&H CK 0123
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1506 of 1981

Ajmer Singh and others

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision : 28-02-1984

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1984) 02 P&H CK 0123

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : M.L. Sarin, for the Appellant; B.N. Aggarwal, AG., for the Respondent

Final Decision : Allowed

Judgement

J.V. Gupta, J.—This petition is directed against the order of the Collector whereby the application u/s 18 of the Land Acquisition Act, (hereinafter called the Act), for a reference to the District Judge concerned has been dismissed.

2. The land of the Petitioners along with that of the other, persons was acquired by the State of Punjab on January 15, 1970. The Collector gave the award, No. 1, on March 26, 1970, and the amount of compensation was paid to the claimants including Hari Singh, the father of the present Petitioner, on May 1, 1970. Hari Singh, moved the application before the Collector u/s 18, of the Act. That application was dismissed by him on January 4, 1973, as it was held that Hari Singh had accepted the amount of compensation without any protest. The said order of the Collector, was challenged by way of revision in this Court, which was allowed" on July 21, 1977, and the case was sent back for fresh, decision. However, the application was again dismissed by the Collector on August 24, 1978. That order was also challenged by way of revision in this Court which was also allowed on December 7, 1978, and the case was sent back for fresh decision in view of the directions given earlier by the High Court. For the 3rd time, the Collector again dismissed the application vide impugned order dated April 14, 1981. According to the learned Collector, Hari Singh accepted the amount of

compensation without any protest and, therefore, in view of the provisions of Section 31(2) of the Act the application was liable to be dismissed. Dissatisfied with the same, the Petitioners have again come up in revision to this Court.

3. The Learned Counsel for the Petitioners contended that the amount of compensation was received under protest. No particular form of protest is prescribed under the Act. The very fact that the application was filed on May 1, 1970, for claiming a reference was itself sufficient to show that the amount was accepted with protest. In any case, argued the Learned Counsel, all other claimants also accepted the amount and no entry was made against their names as to show that they accepted the amount under protest, but at the same time, their applications were forwarded to the District Judge and consequently, compensation was also enhanced in their cases. According to the Learned Counsel, the finding of the Collector is wrong and against the evidence on the record. In support of the contention, the Learned Counsel relied upon the Full Bench judgment of this Court in *Sher Singh v. Union of India* 1982 P.L.J. 494. It was also contended that even the oral protest was sufficient and it need not be necessarily in writing. In this behalf the Learned Counsel placed on *Rabari Mahadev v. Prant Officer*.

4. At the time of the motion hearing, the records of the Collector, prepared at the time of the making of the payment, and the evidence recorded, were sent for. Thus, the whole record is here. From the statement of Mukand Lal, Kanungo, who was produced on behalf of the Collector, it is proved that at the time of the payment of compensation to the claimants, there was a lot of hue and cry and that they refused to accept the compensation as assessed by the Collector. However, later on, they were told that in case they were dissatisfied with the same, they could seek their remedy in accordance with law. However, the witness also stated that no one made any objection, in writing, at the time of the making of the payment of the compensation amount. The duplicate register containing the entries of the payments made on March 26, 1970, was produced and is available in this Court for inspection. The original register containing the receipts is said to have been destroyed. Against the entry, where Hari Singh is stated to have accepted the compensation, some line has been scored out. According to the Petitioners, it was written there that the amount was accepted under protest. In any case against the entries in case of the other claimants, there is no note made that they accepted the amount under protest, but even then, references in their cases were made by the Collector. Anyhow, it has been admitted by the Kanungo himself that at the time of the making of the payment of the compensation to the claimants, lot of hue and cry was raised and that they were not prepared to accept the compensation amount assessed by the Collector. They only agreed to accept the same when they were told that they could move the necessary application for claiming reference for enhancement of the amount. Apart from that Hari Singh claimant, was an illiterate person and he could only sign in Urdu. If that was so, then,, the protest if any, made by him, could be written by the disbursing officer alone. From the fact that all the

claimants protested against the adequacy of the compensation amount, though orally, at the time of the receipt of the same by them, it is clearly proved that the amount of compensation was accepted under protest though it was not given, in writing, as such. In paragraph 14 of the Full Bench judgment in Sher Singh's case (supra), it was observed that it was manifest that the statute does not in any way lay down the precise time or the mode of recording the protest. This, therefore, is necessarily a matter of legal inference. The very moment a landowner prefers a reference u/s 18 of the Act, he, in essence, disputes the compensation awarded and lodges a protest against the same. Consequently, the receipt of compensation by him long after the presentation of an application u/s 18 of the Act cannot possibly be deemed as a waiver or withdrawal of his earlier clear cut claim for enhancement. To put it tersely, filing a reference application u/s 18 is itself a recorded protest within the meaning of the proviso to Section 31(2) of the Act. Of course in the said case, application for reference was filed earlier and the amount of compensation was received later, but in the present case, it has been admitted on both sides that at the time of the making of the payment of the compensation amount, all the claimant orally protested and they accepted the amount only when they were satisfied that they were entitled to take necessary proceedings for enhancement. It is then that the application u/s 18 of the Act, was moved on May 1, 1970, within the time prescribed. Under the circumstances, it could not beheld that the Petitioners accepted the amount without any protest and, therefore, they were debarred from claiming any reference. It was held in Rabari Mahadev's case (supra), that the protest against the quantum of compensation need not be in writing. The approach of the Collector in this behalf is wholly misconceived. It is unfortunate that the Petitioners had to approach this Court thrice for claiming the reference, for which the application was made in the year 1970.

5. As a result of the above discussion, this petition succeeds and is allowed. The impugned order is set aside and the Land Acquisition Collector Urban Estates, Punjab is directed to make the reference u/s 18 of the Act, to the District Judge concerned immediately on receipt of the records within a month. The Petitioners have been directed to appear before the Collector on March 6, 1984. The records of the case be sent back forthwith.