
(1996) 02 P&H CK 0139
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2526 of 1995

Ashok Kumar Wadhwa and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 05-02-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Land Acquisition Act, 1894 — Section 18(3)

Citation : (1996) 112 PLR 707

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : Suvir Sehgal, for the Appellant; Deepak Sibal, DAG, for the Respondent

Judgement

G.C. Garg, J.—Land of Petitioners situated within the revenue Estate of village Jharsantly, Tehsil Ballabhgarh, District Faridabad was acquired by the State of Haryana for development and utilisation thereof as Industrial Area, Sector 59, Faridabad, in pursuance of notification dated 10.6.1988 is sued u/s 4 of the Land Acquisition Act. The Land Acquisition Collector gave his award on 20.3.1991.

2. The case of the petitioners is that no notice about the making of the award was received by them from the Collector as is the mandatory requirement u/s 12(2) of the Act. According to the petitioners, even they did not receive any notice as envisaged u/s 9(3) of the Act and as such they could not file their claim for compensation of the acquired land and nor could they appear before the Collector before he determined the price of the land and made the award. Further according to the petitioners, they came to know of the making of the award dated 20.3.1991 for the first time only on 9.6.1994 and thereafter received the amount of compensation on 16.6.1994 under protest. Consequently, the petitioners made application u/s 18 of the Act for making reference to the District Judge and this application was received in the office of the Collector on 15.6.1994. The Land Acquisition Collector did not entertain the said application

and filed the same by his order dated 30.1.1995 on the ground that the same was barred by time. A communication in this behalf was received by the petitioners in February 1995.

3. The only contention of the learned counsel for the petitioners is that the petitioners were not heard by the Land Acquisition Collector before passing the impugned order dated 30.1.1995. In other words, the contention is that in the absence of notice the Collector could not decide the application. Learned Counsel further submitted that no reason whatsoever has been given in the impugned order for not entertaining the application of the petitioners.

4. After hearing learned counsel for the parties and on a consideration of the matter, I find merit in the contention of the learned counsel. The application moved by the petitioners seeking reference was dismissed by the Collector as barred by time without assigning any reason. Even, admittedly, no notice was served on the petitioners before passing the impugned order. Since in view of the provisions of sub section (3) of Section 18 of the Land Acquisition Act, as amended, the order passed by the Land Acquisition Collector is subject to revision by this Court and thus it being a revisable order, the Collector was required to hear the petitioners before passing the impugned order. He was further required to state reasons in the order disposing of the prayer of the petitioners so that, if an eventuality comes, the revisional court may look into it and examine the matter appropriately. In this situation, the revision succeeds. Order of the learned Land Acquisition Collector, passed on 30.1.1995 rejecting the application of the petitioner"s as barred by time is set aside and a direction is issued to the Land Acquisition Collector, Urban Estate, Haryana, Faridabad to pass a fresh order on the application u/s 18 of the Act filed by the petitioners stating detailed reasons for the acceptance or rejection thereof, as the case may be and before doing this, learned Collector shall hear the petitioners in the matter. The parties through their counsel are directed to appear before the learned Collector on 11.3.1996