
(2000) 12 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 10122 of 2000

Balbir Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 15-12-2000

Acts Referred:

Citation : (2001) 2 LJR 537 : (2001) 1 PLJ 293 : (2001) 3 PLR 595 : (2001) 4 RCR(Civil) 31

Hon'ble Judges : Jawahar Lal Gupta, J and N.C.Khichi, J

Advocate : Mr. M.C. Berry, Senior D.A.G., Punjab., Mr. Arun Jain, Advocate.,
Advocates for appearing Parties

Judgement

Jawahar Lal Gupta, J. (Oral)

1. The petitioner has approached this Court with the prayer that the notification dated July 3, 2000 issued under Section 6 of the Land Acquisition Act, 1894, be quashed. A few facts may be noticed.

2. The land in dispute measures 2 Kanals 18 Marlas. It is situate in village Bahamana, Tehsil Samana, District Patiala. It is alleged that initially, the District Magistrate had asked the Municipal Council, Samana to utilise the land for the purpose of collection of bones of dead animals. The petitioner had filed CWP No. 5278 of 2000. While this writ petition was pending and notice of motion had been issued, the respondents had resorted to the process of acquisition. Consequently, the notification dated July 3, 2000 was issued under Section 6 read with Section 17 of the Act. This was so done without the issue of any notification under Section 4. The petitioner alleges that the action of the respondents is wholly arbitrary and based on extraneous considerations. Consequently, he prays that the impugned notification by which he is sought to be dispossessed from his land be quashed.

3. A written statement has been filed on behalf of the Municipal Council. However, on behalf of respondents No. 1 and 2, no reply has been filed. Mr. M.C.

Berry, Senior DAG, Punjab, on instructions from Mr. Anil Pasricha, Senior Assistant, Department of Local Government, who is present in Court, states that there has been an omission. The notification dated July 3, 2000 was issued without the State Government having issued any process under Section 4. Consequently, he submits that the impugned notification may be deemed to have been withdrawn.

4. Mr. Arun Jain, counsel for the petitioner submits that the District Magistrate had tried to deprive the petitioner of the land by exercise of executive power. In the writ petition mentioned above, the petitioner has specifically alleged that he was a Sarpanch and belonged to the Tohra group in the State of Punjab. When the writ petition was entertained, the State Government had invoked the provisions of the Land Acquisition Act, 1894. Learned counsel contends that the action is apparently arbitrary and based on extraneous considerations.

5. The claim has been controverted by the counsel for the respondents.

6. On an examination of the matter, it is clear that the respondents had initially tried to deprive the petitioner of his land by directing it to be used for dumping carcasses. With the intervention of this court, the respondents could not succeed. Resultantly, the power under the provisions of the Land Acquisition Act was invoked. Apparently, the action was without any application of mind as a notification under Sections 6 and 17 was issued without even passing any order under Section 4 of the Act.

7. Taking the totality of circumstances into consideration which have not been controverted by the respondents by filing any reply despite opportunity, it appears that the allegations made by the petitioner are not without basis. Since the respondents have themselves conceded that the action was illegal, we do not consider it necessary to say anything more. However, we are satisfied that the petitioner deserves to be compensated by the award of costs. He was unnecessarily forced to approach this Court. Consequently, he will be paid his costs which are assessed at Rs. 10,000/-. The writ petition is, accordingly, disposed of.