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(2000) 07 P&H CK 0094

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 8344 of 1994

Bhawani Shankar — APPELLANT

Vs

State of Haryana — RESPONDENT

Date of Decision : 13-07-2000

Acts Referred:

Citation : (2001) 1 LJR 82 : (2000) 4 RCR(Civil) 388

Hon'ble Judges : A.L.Bahri, J and Kamlesh Gupta, J

Advocate : Mr. Aakash Jain, Advocate., Advocates for appearing Parties

Judgement

A.L. Bahri, J.

1. After hearing counsel for the parties, following order is proposed.

2. Undisputed facts being few and can be summarised. 56 Bighas and 2 Biswas Pukhta land of the petitioner situated at Faridabad was acquired. Notification under Section 4 of the Land Acquisition Act was issued on September 6, 1966. Award was announced by the Collector on January 20, 1968. The recorded share of the petitioners in 56 Bighas and 2 Biswas of land was 1/60. Since the petitioners claimed more share, they made a reference application under Section 30 of the Land Acquisition Act before the Collector. No order of making reference to the District Judge having been made, they filed a Civil Suit, which was decreed on October 23, 1979 holding them entitled to 1/20 share of the aforesaid land and entitled to compensation. The matter ultimately went to the Supreme Court, who vide order Annexure D2 dated April 18, 1991 gave direction to the petitioners to approach the Land Acquisition Collector for the relief. They did so and on their representation, order Annexure P7 was passed on May 17, 1993, which is challenged in this writ petition. Vide this order, the Collector dismissed the application of the petitioners observing that the compensation of entire land had already been released to the owners as per entries recorded in the Revenue Record.

3. Several opportunities were allowed by the Court before admission of the writ

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petition enabling the respondents to file the reply but the same was filed on January 4, 1994 taking the stand as given in the order Annexure P7 showing inability to grant the relief to the petitioners.

4. Two courses could be open legally. One, the Land Acquisition Collector to pay compensation to the owners of the land and if some excess payment has been made to some one to recover the same. The other could be making reference under Section 30 of the Land Acquisition Act for which application was filed by the petitioners before the Land Acquisition Collector. Then the District Judge would have determined the share of the respective owners entitled to compensation. Since the Supreme Court directed the petitioners to approach the Land Acquisition Collector, it was expected of the Collector not only to comply with the order of the Supreme Court but also the civil Court decree and allow payment of compensation to the petitioners to the extent of 1/20th share as declared by the Civil Court and recover the excess amount, if any paid to other cosharers. Thus, while allowing the writ petition we direct the Land Acquisition Collector to act accordingly as above and grant the relief to the petitioners as per decree of the civil Court. The petitioners may appear before the Land Acquisition Collector on 4.9.2000.

5. Copy of the order be sent to the Land Acquisition Collector and given to counsel for the parties. If the respondents object to the proposed order as above, they may move their objection petition for taking up the matter before the High Court for disposal according to law, within a month.

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