

(1993) 07 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3389 of 1990

Budh Singh

APPELLANT

Vs

Land Acquisition Collector and Others

RESPONDENT

Date of Decision : 21-07-1993

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 23

Citation : (1993) 104 PLR 664

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : M.L. Sarin and Alka Sarin, for the Appellant;

Judgement

V.K. Jhanji, J.—The land situated in village Ajnala, District Amritsar, belonging to one Pala Singh was taken into possession forcibly by the Punjab Armed Police in March, 1963. After some time, possession was handed over to the Border Security Force. On 30.5.1965, notification u/s 4 of the Land Acquisition Act (briefly "the Act") for acquisition of this land was issued. Pala Singh filed suit for possession of land which was taken forcibly by Armed Police. In the suit, he also challenged the notification issued u/s 4 of the Act. The said suit was decreed on 26-10-1971. In consequence thereof, Pala Singh was held entitled to possession and the notification u/s 4 of the Act was also held not valid. A specific finding was also recorded that Pala Singh was dispossessed in March, 1963. Appeal against this judgment and decree was dismissed by the first appellate Court on 1.2.1973. Second Appeal No. 1645 of 1973 was preferred in this Court, which too was dismissed on 16.9.1982. On dismissal of appeal by this Court, the Union of India filed suit for restraining Budh Singh son of Pala Singh from taking possession of land in execution of the decree which had been passed in favour of Pala Singh. Execution was filed by Budh Singh since Pala Singh had died during pendency of these proceedings. Ad interim injunction prayed for, was declined by the trial Court on 29-8-1984. in the meanwhile, i.e. on 16.11.1984, another notification was issued under Sections 4 and 6 of the Act for acquisition of this land. The

order of the trial Court, refusing to grant injunction was challenged in appeal. Appeal was dismissed and the matter was brought to this Court in Civil Revision No. 1759 of 1985 which was decided on 16.8.1985. While dismissing the revision petition, a direction was issued that amount under the award which was given in pursuance of notification dated 16.11.1984 shall be paid to the land-owners within a period of three months from the date of decision of the revision petition failing which the land-owners were held entitled to recover the interest at the rate of 18% p. a. from the date of taking possession of the acquired land upto the date of payment of the amount awarded. It may be noticed at this stage that the award which was given for the acquisition of land, the land-owners were allowed interest at the rate of 9% p. a. for the first year from the date of dispossession by the department and at the rate of 18% p.a. thereafter till the date of actual payment. Against the award, first appeal was preferred in this Court which is stated to be pending, Cross objections of the land-owners are also pending decision. In the first appeal against the award, a prayer was made for stay of execution of the award. The said prayer was declined by this Court on 11.11.1987. The land-owners thereafter preferred execution for the realisation of the enhanced compensation, in which they also claimed interest at the rate of 9 per cent for the first year from March, 1963 and at the rate of 18 per cent for the subsequent period. Entitlement of the land owners for interest on contest, was declined by the Additional District Judge, Amritsar. Land owner (petitioner herein) was held entitled to interest from 17.12.1984 as it was found that the possession was taken on that date. For this, reliance was placed on the entries made in Rapat Roznamcha. The order of the Additional District Judge, Amritsar, is being impugned in the present revision petition.

2. Having heard the learned counsel for the petitioner, I am of the considered view that this revision petition deserves to succeed. As already noticed, Pala Singh was dispossessed in March, 1963. Subsequent to his dispossession, notification u/s 4 of the Act was issued in May, 1965, which led to the filing of the suit for possession. Suit in favour of Pala Singh was decreed and a finding was recorded therein that Pala Singh was dispossessed in March, 1963. The judgment of the trial Court was not only affirmed by the first appellate Court, but also by this Court in Regular Second Appeal decided on 16.9.1982. In view of the finding recorded by the trial Court that Pala Singh was dispossessed in March, 1963, the entries in Rapat Roznamcha relied upon by the Additional District Judge become totally irrelevant and, therefore, no reliance can be placed on the same. The petitioner cannot be made to suffer for no fault of his. His efforts to get decree for possession executed was frustrated on account of acquisition of his land. On equitable considerations, also, the petitioner would be entitled to have interest from the date he was dispossessed. This view of mine finds support from two judgments of this Court, reported as Hardev Singh and Ors. v. State of Punjab 1990 (1) R.L.R. 32 and the other reported as, State of Punjab v. Smt. Raminder Kaur 1988 L.C.C. 610. According to the award, the petitioner was held entitled to interest at the rate of 9 per cent for the first year from the date of dispossession.

by the department and at the rate of 18 per cent thereafter till the date of actual payment. In the present case, the dispossession was made in March, 1963, and therefore, the petitioner would be entitled, to interest from 31.3.1963 at the rate of 9 per cent and thereafter at the rate of 18 per cent

3. Resultantly, the impugned order is set aside and the revision petition is allowed with costs, in the terms indicated above. The trial Court is directed to expedite the execution: Costs are assessed at Rs. 1.000/-.