
(1985) 11 P&H CK 0057
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5175 of 1978

Budh Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 06-11-1985

Acts Referred:

Citation : (1986) PLJ 412 : (1986) RRR 640

Hon'ble Judges : I.S.Tiwana, J

Advocate : Mr. J.R. Mittal, Advocate., Advocates for appearing Parties

Judgement

I.S. Tiwana, J. (Oral)

1. Petitioner's claim for the appointment of an arbitrator and referring their case for the proper determination of compensation for their acquired property under the Defence of India Act, 1971 to them has been turned down by the Competent Authority, i.e., respondent No. 3 on the ground that the request made by them was barred by time. What is maintained on behalf of this Authority is that under rule 9, an application for arbitration could be filed within 30 days of the receipt of the communication regarding the determination of the compensation. As against this, the case of the petitioners is that, as a matter of fact, the compensation determined under section 31 of the Act was at no stage communicated to them and, therefore, there is no question of their application being barred by limitation.

2. The learned counsel for the respondents contends with some amount of vehemence that, as a matter of fact, 80% of the compensation determined for the property in question was paid to the petitioners and that by itself was a good notice to them about the determination of the exact compensation payable to them. It appears that the submission is totally misconceived. It is only under rule 15 of the Defence of India Rules, 1971, that the compensation determined under section 24 of the Act for a requisitioned property can be paid in parts i.e. 80% of the compensation by way of "on account payments" and balance later, and not the compensation of an acquired property. Learned counsel for the respondents are not in a position to produce before me any order determining the amount of

compensation payable for the acquisition of the petitioners' property and the communication of the same to the petitioners. I am further of the opinion that the communication envisaged by rule 9 of the Rules is not by way of word of mouth only. It has to be in the manner provided for the service of a notice under rule 16. No such communication, as a matter of fact, has been made to the petitioners, and in the light of that, there is no question of their application being barred by time.

3. In the light of the above, I direct the respondent authorities to appoint an arbitrator to determine the adequacy of the compensation payable to the petitioners for the acquisition of their property, i.e., the tubewells. These authorities are further directed to make the appointment of the arbitrator and refer the matter to him within a period of four months from today.

4. The petitioners would also have the costs of this petition which I determine at Rs. 500/.