
(1995) 07 P&H CK 0006

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11410 of 1993

Budhi Parshad

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 20-07-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 28A

Citation : (1995) 111 PLR 272

Hon'ble Judges : N.K. Kapoor, J

Bench : Single Bench

Advocate : Pritam Saini, for the Appellant; Azad Singh, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

N.K. Kapoor, J.—This writ petition is for issuance of a writ of certiorari to quash the order dated 11.10.1990 whereby petitioner's application u/s 28-A of the Land Acquisition Act has been rejected with a further direction to respondent No. 2 to decide the application in accordance with law and determine the compensation in accordance with the judgment passed by the Additional District Judge, Kurukshetra.

2. It is the case of the petitioner that he along with his brother was the owner of land measuring 3 Kanals 1 marla comprised in Khewat No. 30 Khatauni No. 60 khasra No. 14/2/3(0-13) and 17/1(2 kanals 8 marlas) situated at village Ratgal, Tehsil Thanesar, District Kurukshetra. This land was acquired vide notification issued u/s 4 of the Land Acquisition Act on 11.3.1981. Land Acquisition Collector passed an award on 25.6.1986. Neither the petitioner nor his brother filed any reference u/s 18 of the Act. Some other claimants filed references u/s 18 of the Act, which was decided on 4.4.1989. It is thereafter that the petitioner applied for a copy of the order, which is annexure P-1 to the petition. On receipt of the copy, annexure P-1 the petitioner filed application u/s 28-A of the Act for re-determination of the compensation before respondent No. 2. According to the

petitioner this application was received in the office of respondent No. 2 within the stipulated period of 90 days from the date of receipt of the certified copy of the award passed by the Additional District Judge, Kurukshetra. It is further case of the petitioner that respondent No. 2 never issued any notice for his appearance. On further enquiry it was found that application was rejected on 11.10.1990, being barred by time as the same had been filed after the expiry of a period of 3 months from the date of passing of the first award of the District Judge on 29.2.1988. It is this order of respondent No. 2, which is being challenged terming it to be illegal and arbitrary. Reliance has been placed upon the Division Bench judgment in Lila Krishan v. Land Acquisition Collector 1991 2 P.L.R. 65. Support has also been sought from another decision of this Court in C.W.P. No. 4441 of 1992.

3. Respondents No. 1 and 2 have filed joint written statement. The claim of the petitioner is being resisted on the ground that application u/s 28-A of the Act was time barred from the first award in respect of the this notification given by the Additional District Judge on 29.2.1988.

4. Factual aspect is not in dispute i.e. petitioner did not seek any reference u/s 18 of the Land Acquisition Act. As per Section 28-A of the Act any person who is aggrieved by the award of the Collector but has not sought a reference u/s 18, can file an application to the Collector within 3 months from the date of award of the Collector praying that the amount of compensation payable to him may be re-determined on the basis of amount of compensation awarded by the Court. It is the case of petitioner that admittedly he had the right to file an application in terms of Section 28-A of the Act. As regards the objection of the respondents that the same was time barred, counsel urged that the matter stands decided by the Division Bench in Lila Krishan's case (supra). As per this decision, the limitation is to be considered from the date of the award relied upon by the land owner. Since in the present case reliance has been placed upon the award dated 4.4.1989, the application filed by the petitioner is within limitation.

5. I find merit in this submission of the learned counsel for the petitioner. Matter is fully covered by the above noticed decision of the Division Bench. In this view of the matter, I accept the petition, set aside the order passed by respondent No. 2 and direct the Collector to treat this application within time and proceed further to pay the enhanced compensation to the petitioner in accordance with law without any further delay and preferably within four months.