
(1993) 01 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12471 of 1989

Capital Stone Crushers

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 05-01-1993

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 31(2)

Citation : (1993) 103 PLR 622

Hon'ble Judges : Jawahar Lal Gupta, J

Bench : Single Bench

Advocate : R.S. Mittal and Tarun Jain, for the Appellant; Arun Nehra, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—This order will dispose of CWP Nos. 12471 and 12564 of 1989. The primary grievance of the petitioners in these two cases is that the compensation awarded by the Land Acquisition Collector was neither paid nor deposited and as such the entire acquisition proceedings have lapsed. A few facts as emanating from CWP No. 12471 of 1989 may be noticed.

2. The petitioner is a partnership firm having a stone crusher in the revenue estate of village Maheshpur (Panchkula), district Ambala. It is averred that the petitioner has been carrying on the business of stone crushing since the year 1970 on a plot of land measuring 8 Kanal and 2 marlas. It is further averred that even though this land had been taken initially on lease, the petitioner had actually purchased it on May 8, 1974. On June 6, 1983, the State of Haryana issued a notification u/s 4 proposing to acquire , 00,71 acres of land in village Maheshpur for the public purpose of developing a residential area. A copy of this notification has been produced on record as Annexure P-1. On June 27, 1984, the notification u/s 6 declaring that an area measuring 194.92 acres of land was required for the public purpose notified on June 6, 1988, was issued. The award

in respect of an area measuring 154.44 acres was made by respondent No. 2 on September 17, 1986. A copy of the award has been produced on record as Annexure P-3. It is averred that even the meagre amount assessed by the Land Acquisition Collector was neither offered nor deposited for more than 2 years and as a result the petitioner was constrained to file CWP No. 1103 of 1980 praying for a writ of mandamus directing the respondents to pay the compensation. Even at that stage instead of making the payment of the amount claimed by the petitioner, the respondents had chosen to contest the petition. Averring that the amount of compensation as assessed u/s 11 having not been deposited and no payment having been actually made to the petitioner, the entire acquisition proceedings have lapsed, the petitioner has prayed for the quashing of notification under Sections 4 & 6 (Annexures P. 1 & P. 2)

3. The written statement has been filed on behalf of respondent No. 2. It has been inter-alia averred that the award was given on September 17, 1986 and the writ petition filed in the year 1989 was, highly belated. It has been further averred that the compensation in respect of the land was properly assessed and the petitioner had sought a reference u/s 18. The respondent maintained that after making the award "the petitioner was asked to take the payment from the office of respondent No. 2, but the petitioner has not turned up to take the money till today ..." The specific averment in para 5 of the writ petition that the amount of compensation was not deposited as a revenue deposit in spite of the provisions of Section 31 has not been controverted. Still further the averment in paragraph 6 of the writ petition that the respondents have never demanded possession of the acquired land from the petitioner, although more than 3 years have expired, after the award was made and more than six years have expired from the date of the notification u/s 4 of the Act" has also not been controverted in the written statement filed on behalf of the respondent.

4. I have heard Mr. R. S. Mittal, learned counsel for the petitioner and Mr. Arun Nehra for the respondents. Mr. Mittal contends on the basis of the provisions contained in Sections 11, 11A and 31 that it was incumbent upon the respondents to "deposit the amount of compensation in the Court to which a reference u/s 18" could have been submitted and that they having failed to do so, the entire proceedings should be deemed to have lapsed. Mr. Nehra, appearing for the respondents, concedes that factually no deposit has been made by the Land Acquisition Collector. He, however, contends that the petitioner could have approached the authorities and collected the money. He having failed to do so, the proceedings cannot be said to have lapsed.

5. Even though Mr. Arun Nehra has not pressed the objection of delay raised in the written statement, yet it may be noticed that the grievance of the petitioner is that in spite of the lapse of more than two years, the Land Acquisition Collector had failed to deposit the amount of compensation assessed by him. On this premises, it is claimed that the acquisition proceedings had lapsed. It is the admitted position that the award was given on September 17, 1986. In the

normal course, the deposit could have been made soon thereafter. The petitioner approached this Court in September, 1989. Even if the amount had been deposited prior to that date, probably the defence of delay could have been raised. However, if the collector failed to make the deposit even for three years after the coming of the award, the petitioner cannot be accused of any delay. Consequently, there is no merit in the objection raised on behalf of the respondents and it is rejected.

6. This brings me to the consideration of the merits of the controversy.

7. The provisions of the Land Acquisition Act authorise the State to compulsorily acquire a citizen's property. However, in order to ameliorate the hardship, a procedure has been laid down which provides for an enquiry and award by the Land Acquisition Collector. Provisions for the payment of the amount as assessed by the Collector has been made so as to enable the citizen to make his ends meet and/or buy some alternative property. It is with this object that a provision has been made in Section 11 that the Collector shall after enquiring into the value of land make an award regarding the compensation. Even though initially the Act had not prescribed any time limit for the making of the award by the Collector, Section 11A has been added by Act No. 68 of 1984 where under it has been provided that the Collector shall make an award within a period of two years from the date of the publication of the declaration and that the failure to make the award shall result in lapsing of the acquisition proceedings. It is clearly symbolic of the legislative intent that the award has to be made within two years and the compensation has to be paid immediately thereafter. The provisions of Section 31 clearly provide that the Collector shall tender payment of the compensation awarded by him. It is also provided that if the land owner does not consent to receive the payment of compensation, the Collector shall deposit the amount in court to which a reference u/s 18 could be made. A combined reading of all the provisions makes it incumbent upon the Collector to either pay or to deposit the amount of compensation assessed by him. The obvious object of these provisions is to ensure that the citizen does not have to run after the Collector for receiving the compensation. The citizen should not be at the mercy of the officials. He has a right to receive the compensation and even if he refuses to accept the amount, the Collector must make the deposit. The Legislative intent behind all these provisions is not only to authorise the State to compulsorily acquire a citizen's property by issuing notifications under Sections 4 and 6, but also to ensure the disbursement of the compensation to the rightful claimant.

8. A perusal of the factual position as apparent from the pleadings of the parties shows that after the issue of the notifications in June, 1984 and June, 1983 respectively, the award was made by the Collector on September 17, 1986. However, neither the amount of compensation was deposited, nor was the possession taken. In such a situation, the necessary consequence that follows is that there was no compliance with the mandatory provisions of the Act and

particularly those contained in Section 31(2). As a result, the proceedings cannot be saved. Failure to deposit the amount for such a long time would virtually amount to say that there was no award at all. The very purpose behind Section 11A and Section 31 is defeated.

9. In this view of the matter, the impugned notifications, viz. Annexures P. 1 and P. 2, cannot be sustained. These are accordingly quashed. In the circumstances of the case, the parties are left to bear their own costs.

10. As a result, even CWP. No. 12564 of 1989 is to be allowed. It is ordered accordingly. No costs.