

(2000) 09 P&H CK 0167
In the Punjab And Haryana At Chandigarh
Case No : Criminal 4634 of 1997

Chandu Lal through LRs

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 27-09-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 11, 18, 19, 20, 21

Citation : (2001) 1 RCR(Civil) 370

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Jaswantt Jain, for the Appellant; Mr. Yashpal, AAG, for the Respondent

Judgement

R.L. Anand, J.—By this order I dispose of four Civil Revisions Nos. 4634 (Chandu Lal v. State of Haryana), 4635 (Mahabir and others v. State of Haryana and others), 4636, (Ram Partap v. State of Haryana) and 4656 (Jagpal v. State of Haryana), all of 1997, as common questions of law and facts are involved in these revisions.

2. These revisions have been filed under Article 226 of the Constitution of India r/w Section 115, CPC. The challenge in these revisions has been given to the order dated 30.5.1997 but after hearing the counsel for the parties, I am of the opinion that the intention of the petitioners in all the cases was also to give challenge to the order dated 2.1.1997. In these circumstances, I am looking at the propriety of both the orders dated 2.1.1997 and 30.5.1997.

3. Some facts can be noticed in the following manner :-State of Haryana vide notification No. 28HA/63-H/998 dated 1.10.1998 followed by Notification No. 28-HA/63-H/106 dated 23.2.1981 issued under Sections 4 and 6 of the Land Acquisition Act, respectively, acquired the land. The Land Acquisition Collector gave the award on 31.3.1986. Some of the land owners were not satisfied with

the award, and they made a reference u/s 18 of the Act to the court of District Judge, Hisar, and the matter was referred to the Addl. Distt. Judge, Hisar, who gave the award on 15.12.1993. The petitioners made an application u/s 28A of the Act before the Collector requesting him to determine the compensation on the basis of the award of the Court of Addl. Distt. Judge, Hisar. That application was declined vide order dated 2.1.1997 holding that since the petitioners had not given the particulars of their land acquired by the Govt., therefore, he was not inclined to reopen the matter. It is true that the petitioners did not challenge the order dated 2.1.1997 specifically by a separate petition under Article 227 of the Constitution of India, However, they made another application before the Collector, PWD (B&R), who dismissed the same vide order dated 30.5.1997 by holding that the learned Additional Distt. Judge, Hisar, has already given the decision dated 15.12.1993. Moreover, the Collector has also given the decision dated 2.1.1997 and, therefore, there was no justification to open the case afresh.

4. Counsel for the petitioners submits that the earlier application was dismissed on technical reasons vide order dated 2.1.1997. In the second application, the petitioners have given their specific shares and, in these circumstances, it was obligatory on the part of the Collector to proceed according to Section 28A of the Act.

5. There is merit in the contention of the counsel for the petitioners. Section 28A of the Land Acquisition Act, 1894, lays down where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector u/s 11, the persons interested in all the other land covered by the same notification u/s 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector u/s 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court.

6. As per sub-section (2), the Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard and make an award determining the amount of compensation payable to the applicants.

7. Thus a reading of the above provisions would show that on receipt of the application, it was obligatory on the part of the Collector to hold an inquiry after giving notice to the persons interested. He could not straightaway dismiss the application. According to sub-section (3) of Section 28A, any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of Section 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference u/s 18.

8. Thus, the Collector has to dispose of the application in terms of Section 28-

A(32) and give his award and if that award is not acceptable to the party, he can always move to the Collector to make a reference u/s 18 of the Act, to the Court.

9. In this view of the matter, I set aside the orders dated 2.1.1997 and 30.5.1997 and give directions to the Land Acquisition Officer, PWD (B&R), Hisar, to re-determine the compensation after taking note of the decision dated 15.12.1993 passed by the court of Addl. Distt. Judge, Hisar. The Land Acquisition Officer shall also determine whether the petitioners had any right, title or interest in the land in dispute and on coming to the conclusion that they had interest in the land, they shall be awarded compensation after taking note of the order dated 15.12.1993.

10. All the four revisions stand disposed of.

11. Revisions disposed of.