
(2000) 12 P&H CK 0166
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9582 of 2000

Chet Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 22-12-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 17(3), 4, 6

Citation : (2001) 4 RCR(Civil) 21

Hon'ble Judges : Mehtab S. Gill, J; Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. D.S. Gill, for the Appellant; Mr. Lakhinder Singh, Addl. A.G., for the Respondent

Judgement

Jawahar Lal Gupta, J.—The 29 landowners have approached this Court through the present petition with the prayer that a writ in the nature of mandamus be issued directing the respondents to pay the compensation which "they were bound to pay before taking possession of the land as per the provisions of Section 17(3) and (3-A) of the Land Acquisition Act.....".

2. This petition was posted before the Bench on July 26, 2000. Notice of motion was issued for October 30, 2000. It was directed that "the respondents shall determine the amount due to the petitioners and bring cheques for that amount in court on the aforesaid date". The direction was not complied with. Even a reply was not filed on the date fixed viz. October 30, 2000. At the request of the counsel, the case was adjourned to December 20, 2000 with the direction that the order dated July 26, 2000 shall be complied with. Even on December 20, 2000, nothing was done. Consequently, vide our order of December 20, 2000, we had directed the Land Acquisition Collector and the Executive Engineer-respondents No. 3 and 4 to appear in Court and to show cause as to why proceedings under the Contempt of Courts Act, 1971 be not initiated against them.

3. Respondents No. 3 and 4 have filed their replies.

4. Before proceeding to consider the arguments of the counsel for the parties, a few facts may be noticed.

5. On September 2, 1997, the State Government published a notification u/s 4 of the Land Acquisition Act, 1894 indicating that land was needed for public purpose of constructing a drain in District Muktsar. On September 12, 1997, another notification was issued under Sections 6 and 17 of the Act for acquisition of the land. The petitioner allege that immediately after the issue of these notifications, the respondents started dispossessing the land owners without even offering any compensation. Their action was wholly illegal and arbitrary. When nothing was paid, the petitioners served a legal notice through their counsel for payment of compensation on February 14, 2000. Despite the issue of notice, no action was taken by the respondents. Hence this writ petition.

6. No written statement has been filed. The facts as averred in the writ petition have not been controverted. Only short replies have been filed today by the Land Acquisition Collector and the Executive Engineer viz. respondents No. 3 and 4. Respondent No. 3 has stated that he had written letter dated September 13, 2000 informing the Executive Engineer, Drains, about the money required for various drains in the Muktsar Sub Division. Further reference to a letter dated November 21, 2000 has also been made. In pursuance to the letter, the Sub Divisional Officer, Drainage, Muktsar deposited an amount of Rs. 40,25,404/- on December 21, 2000. This amount has been tendered in Court and the details regarding the amount due to each of the petitioners have been given in the two statement attached with the reply. Cheques for these amounts have been handed over to the counsel for the petitioners.

7. A separate reply has been filed by way of an affidavit by Mr. G.S. Parmar, Executive Engineer, Canal Lining (Drainage) Division, Muktsar-respondent No. 4. It has been averred that he had asked the Land Acquisition Collector vide letters dated November 6, 2000, November 13, 2000 and December 8, 2000 to intimate the amount of compensation alongwith interest so that the Government may be requested to make the money available. The Collector had intimated the amount vide letter No. 934 dated December 18, 2000. Thus, the cheques cold not be produced in Court on December 20, 2000. Thereafter, the officer had requested the Superintending Engineer to arrange funds. These were telephonically released on December 21, 2000. Consequently, the payment has been made vide cheques, which have been produced in Court. On these premises, the two respondents pray that no action be taken against them

8. Counsel for the parties have been heard.

9. A perusal of the facts as mentioned above shows that the land of the petitioners was acquired in September 1997. Under the provisions of the Act, it has been specifically laid down that 80% of the compensation has to be paid to the land owner before the possession is taken. In the present case, the respondents had entered upon the land without making any payment. Still

further, not a little finger was moved till September 13, 2000 when the first letter was allegedly written by respondent No. 3 to respondent No. 4 viz. the Executive Engineer. Why did the respondents not make the payment in time ? In any event, why did they wait for 3 years ? No answer has been given. Still further, it is not disputed that the petitioners had served a legal notice on the respondents on February 14, 2000. Despite the issue of this notice, nothing was done. The total indifference shown by the respondents is symbolic of the attitude that prevails with the authorities. The land owners are deprived of their property. Compensation is not paid. They are harassed. By this delay, the landowners suffer. They are unable to use the existing property because a drain has been dug in the middle. They cannot buy any alternative property because money is not paid to them. We cannot compliment the respondents on their attitude.

10. In the present case, it is clear that there has been complete indifference to the plight of the petitioners at the hands of the State Government and its Officers. This indifference has continued despite the directions given by the Bench on July 26, 2000 and October 30, 2000. It is only when the two respondents were summoned that the payment has been made. No satisfactory explanation whatsoever for the failure to make the payment at an earlier stage has been given. Equally, no explanation for not carrying out the directions of this Court has been given.

11. We may also mention that this is not the solitary case where the State Government and its Officers have been found wanting. During the last about two months, we have come across a number of cases where land has been acquired and compensation has not been paid. People are being forced to come to Courts for getting their rightful due. This obviously results in harassment and also becomes a source of criticism of the State Government and its Officers. People begin to suspect that the delays are being caused for ulterior considerations. It is time that the State Government should pay some heed to the needs of the people and pay money to those who have been deprived of their land. We hope that the needful shall now be done without any avoidable delay.

12. As for the present case, we are satisfied that the petitioners deserve to be compensated by payment of compensatory costs. Since the payment has been made, the writ petition has been rendered infructuous. If the petitioners are not satisfied with the amount paid to them, they would be entitled to seek their remedy. However, since the petitioners were forced to come to the Court only on account of the default on the part of the respondents, they shall be paid Rs. 30,000/- by way of costs. The State Government shall fix the responsibility for the failure to make the payment in time. The amount of Rs. 30,000/- shall be recovered from the Officer who is found responsible for this delay.

13. The writ petition is, accordingly, disposed of. Accepting the apology tendered by respondents No. 3 and 4 in Court, we drop the proceedings for contempt against them.

14. Petition disposed of.