
(2000) 05 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2362 of 1997

Deep Chand and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 25-05-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (2000) 126 PLR 377 : (2000) 4 RCR(Civil) 658

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : R.K. Jain, for the Appellant; D.K. Khanna, for the Respondent

Judgement

Swatanter Kumar, J.—This regular first appeal is directed against the judgment and award dated 20.8.1997 passed by the learned District Judge, Gurgaon, answering reference u/s 18 of the Land Acquisition Act (hereinafter referred to as the "Act"). It may not be necessary to state the facts of this case in greater detail. Suffice it is to know that the Haryana Government acquired the land vide notification u/s 4 of the Act dated 20.4.1990 vide award 8 of 1992-93 the Land Acquisition Collector granted compensation to various claimants at the following rates.

Name of village Rate per acre: Chahi Magda Bhood Banjar and Gair Mumkin Jharsa Rs. 4 Lacs 3.5 lacs 3 lacs 2.5 lacs Bindapur) Samaspur) Rs. 1.5 Lac 1.25 lacs 1 lac 1 lac Kanhai)

2. A large number of claimants had filed reference u/s 18 of the Act which were disposed of by the learned District/Additional District Judge vide different awards and judgments.

3. Some of the appeals preferred by the claimants before this Court were subject matter of RFA No. 583 of 1998 titled as State of Haryana v. Dilbagh Singh, decided on 3.6.1999, where the amount of compensation awarded to the claimants was reduced to Rs. 212/- per sq. yard from Rs. 265 per sq. yard as

granted by the learned reference Court, by this Court.

4. Vide the present judgment the learned Additional District Judge only answered one reference and declined to enhance any amount as the claimants had failed to lead evidence to show the market value of the land in question, as well as their claim in regard to super structure existing on the land which was subject matter of the acquisition. Despite opportunities, they had failed to conclude the evidence. Thus, the learned Court dismissed the references, maintaining the award of the Land Acquisition Collector. Aggrieved from the said judgment the present appeal has been filed and it has been stated that the counsel had noticed a wrong date, as a result of which the evidence could not be produced nor the counsel could appear on the date in question, which ultimately resulted in dismissal of the reference. It has also been pleaded that the counsel had appeared on all the dates which were given for recording of evidence, but the evidence was recorded in connected reference on 22.4.1996. However, on one date the counsel could not appear as he had wrongly noticed the date which resulted in the passing of the impugned order.

5. It is the practice of the Courts to take reference arising from the same notification normally together and the possibility of a counsel noting a wrong date in the single reference case cannot be said to be totally unbelievable. The land of the claimants had been acquired along with some superstructure and it will not be just and fair, if they are denied the compensation payable for such acquisition. Though some appeals have been dismissed by this Court, but the claimants still would have a claim for enhancement of the amount from the one awarded to them by the Land Acquisition Collector. This not only relates to the enhancement of amount of compensation for land alone but also in relation to super structure. Thus, it will require detail and expert evidence before the matter can be finally adjudicated.

6. For the reasons aforesaid, I would set aside the judgment dated 20.8.1997 and would remand the matter to the learned reference Court. The Court shall grant one final opportunity to the claimants to produce their entire evidence on the date to be fixed by it. After recording evidence, the learned Court shall proceed with the reference in accordance with law. The claimants would not be given more than one opportunity for concluding evidence, except for paucity of time with the Court on the date fixed. It will be at the risk and responsibility of the claimants if after taking out the summons through the process of the Court, they fail to produce their evidence.

7. The appeal is disposed of in the above terms. The appellants shall be liable to pay costs of Rs. 2 000/-, costs being conditional.