
(1996) 08 P&H CK 0056
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 750 of 1992

Dhanpat	Vs	APPELLANT
Punjab State and Others		RESPONDENT

Date of Decision : 30-08-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1996) 114 PLR 470 : (1996) 3 RCR(Civil) 637 : (1997) 1 RCR(Civil) 497

Hon'ble Judges : Ashok Bhan, J

Bench : Single Bench

Advocate : Sanjay Majithia, for the Appellant; S.S. Saron, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

Ashok Bhan, J.—This order shall dispose of Civil Revision Nos. 760 and 761 of 1992. Facts, as stated below, are taken from Civil Revision 760 of 1992.

2. Petitioner has impugned the order of the Additional District Judge, Gurdaspur, dated 1.10.1991, vide which his evidence was ordered to be closed. On the same date, arguments in the main case were heard and the petitioner's application u/s 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was disposed of holding that the applicant was not entitled to enhanced compensation.

3. Vide Punjab Government Notification No.4009/5RSDW(I)/603/S-II/79 dated 27.2.1987, issued u/s 4 of the Act, certain areas of land in the Revenue Estate of village Teeka Katal and village Phangota, Tehsil Pathankot, District Gurdaspur, were proposed to be acquired for reservoir area of Ranjit Sagar Dam Project at public expenses for public purposes. Notification u/s 6 of the Act was issued vide No. 25684/RSDW(I)/603/S-II/79 dated 30.9.1987. Land Acquisition Collector, Ranjit Sagar Dam Project, Shahpur Kandi, gave his award on 29.3.1988,

proposing compensation for the land, structures and trees.

4. Petitioner, whose land had been acquired and compensation awarded by the Land Acquisition Collector, felt dissatisfied with the quantum of compensation. He filed an application u/s 18 of the Act for enhancement of the compensation regarding his land measuring 4 kanals 1 marla. Land Acquisition Collector made a reference to the District Judge, Gurdaspur, in accordance with law.

5. In spite of several opportunities given to the petitioner, including a last opportunity, to produce his evidence at his own risk and responsibility petitioner did not produce the evidence and ultimately, by the impugned order, evidence of the petitioner was ordered to be closed. As stated earlier, the main petition was also disposed of on the same day.

6. A time barred revision petition along with an application u/s 5 of the Limitation Act, 1963, for condonation of 16 days delay in filing the revision petition, was filed in the Court. As no reasons whatsoever had been given in the application for condonation of delay the same was declined, aggrieved against which, petitioner filed Civil Appeals 9500 and 9501, of 1995, in the Supreme Court of India. In the interest of justice, the appeals were accepted and the case was remanded to this Court for disposal in accordance with law.

7. Notice in the application u/s 5 of the Limitation Act, 1963 as well as in the main revision petition was issued to the respondents. After hearing the counsel for the parties, the delay in filing the revision petition was condoned on 19.1.1996.

8. Counsel for the parties have been heard.

9. Although a number of opportunities had been given to the petitioner to produce his evidence but keeping in view the facts and circumstances of the present case and especially the fact that the petitioner is claiming enhanced compensation for the land which had been compulsorily acquired by the State, it is deemed appropriate to grant one more opportunity to the petitioner to adduce his evidence, at his own risk and responsibility.

10. In the petition u/s 18 of the Act, under issue No. 1, trial Court had recorded a finding that the claimant failed to adduce any evidence. Since, no evidence had been adduced by the claimant in support of this claim, issue No. 1 was decided against him, as a consequence thereof, the petition for enhancement of compensation u/s 18 of the Act was dismissed on the same day. The order passed in the main petition, under the circumstances, has to be taken to be subject to the result of this revision petition. Supreme Court of India in *Shiromani Gurdwara Parbandhak Committee and Others Vs. Raja Shiv Rattan Dev Singh and Others*, . Under similar circumstances, set aside the decree of the trial Court which had been passed on remand by the High Court between the date of filing of the application for leave to appeal and the date of grant of the leave. It was held as under :-

"Where the High Court, after passing a final order has remanded the case to the trial Court for processing in accordance with law and the decree of the trial Court after remand is passed between the date of an application for leave to appeal to the Supreme Court from the order of the High Court and the date on which leave was granted, the decree of the trial Court even if not appealed against, must, in the circumstances, be taken to be subject to the result of the appeal to the Supreme Court, and cannot be said to be conclusive so as to prevent the Supreme Court from dealing with the appeal and setting aside or modifying the judgment of the High Court and making a fresh order of remand to that Court itself."

11. Since, I have held that the petitioner is entitled to one more opportunity to lead his evidence, the final order passed by the trial Court on 1.10.1991, on the application u/s 18 of the Act, has to be set aside as a consequence thereof.

12. For the reasons stated above, revision petition is accepted. Orders of the trial Court, closing the evidence of the petitioner as well as dismissing his petition u/s 18 of the Act, are set aside. Parties, through their counsel, are directed to appeal before the trial Court on 23.9.1996, on which date the trial Court shall fix a date for the evidence of the petitioner. It is made clear that the petitioner shall not be granted more than one opportunity to produce his entire evidence, at his own risk and responsibility, after the conclusion of the petitioner's evidence, respondent-State shall also be given one opportunity to produce its evidence. This direction is being issued, keeping in view the fact that the matter pertains to the acquisition of 1987 in which the reference by the Land Acquisition Collector was made on 7.3.1989. The matter has already been considerably delayed. Trial Court is directed to of the reference petition filed u/s 18 of the Act by the claimant, within six months from 23.9.1996.