
(2001) 01 P&H CK 0220
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5175 of 1990

Dilbagh Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 29-01-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5

Citation : (2001) 4 RCR(Civil) 360

Hon'ble Judges : Kamlesh Gupta, J; Amrit Lal Bahri, J

Bench : Division Bench

Advocate : Adarsh Jain, for the Appellant; Rakesh Deshwal, AAG, for the Respondent

Final Decision : Allowed

Judgement

A.L. Bahri, J.—Vide this order two writ petitions i.e. C.W.P. No. 5175 of 1990 titled as Dilbagh Singh and Ors. v. State of Haryana and another and C.W.P. No. 6522 of 1990 titled as Dharam Pal and Ors. v. State of Haryana and Others are being disposed of as the facts are common. The facts are given from the writ petition of Dilbagh Singh.

2. This writ petition deserves to be allowed for the simple reason that procedure prescribed in the Land Acquisition Act for completing the acquisition proceedings was not followed and that acquisition proceedings otherwise lapsed as no compensation for the superstructures existing on the land was paid by making the award within the stipulated time. The facts of the case are, in brief, are as under :-

3. The process to acquire the land of the petitioners-Dilbagh Singh and others started in the year 1970 by issuing notification u/s 4 of the Act. However, the proceedings were allowed to lapse. This exercise was repeated in 1973 and thereafter in 1982. Fresh notification u/s 4 of the Land Acquisition Act was issued on April 21, 1987, Annexure P-1 which is impugned in this writ petition. Dilbagh

Singh and others raised objections to the acquisition proceedings. Notification u/s 6 of the Act was issued on April 20, 1988 followed by award for the land made on April 12, 1990. Annexure P-2 is objections; Annexure P-3 is notification issued u/s 6 of the Act; Annexure P-4 is the notice issued u/s 9 of the Act and Annexure P-5 contains objections u/s 9 of the Act, submitted by the petitioners to the acquisition proceedings. The challenge to the acquisition proceedings is on different grounds, inter alia, that successive attempts were being made to freeze the price of the acquired land and proceedings were allowed to lapse; large chunk of the land was released, whereas, petitioners' land was not released; no notice or hearing was allowed to the petitioners on objections being filed; and no decision was taken since there existing construction on the land in dispute measuring 8 kanals in rectangle number 43 khasra No. 7 and that land was to be released under the policy decision of the Government. In the written statement filed on October 25, 1990 by the Land Acquisition Collector, it was stated that notices of hearing on objections filed u/s 5A were issued to Takhat Singh vide No. 1802 dated March 23, 1990. With regard to the construction, it was stated that no kolhi of the petitioner existed at the time of notification u/s 6 of the Act. The construction work in killa number 43/7 was taken up after the notification u/s 6 of the Act, was issued. From the official record brought, the State counsel has pointed out that compensation for the superstructures was granted under award made on January 11, 1991, with regard to land covered by rectangle No. 43/7.

4. From the facts as stated, it is clear that notices on the objections, were issued on March 23, 1990 as mentioned in para 10 of the written statement, which is after the date of notification issued u/s 6 of the Act i.e. April 20, 1988. Sections 5-A and 6 of the Land Acquisition Act make it clear that on the objections to the acquisition proceedings, notice, hearing and decision were to be made by the appropriate authority and considering the same notification under Section.6 of the Act was required to be issued. Issuing such notices after the date of notification is merely a farce.

5. Since now the stand taken is that for the superstructure existing on the land of the petitioners compensation had already been paid under award made on January 11, 1991, acquisition proceedings stand completed. This stand is devoid of merit. The Land Acquisition Collector contemplates only one award of land as well as of super structures. Even if separate awards were made the subsequent award was required to be made within two years of the notification issued u/s 6 of the Land Acquisition Act. Since award for superstructure was issued after two years, at least to the extent of land covered by superstructure for which award was made after two years, acquisition proceedings cannot be sustained in law. Thus, while allowing the writ petition, a direction is given to the respondents not to acquire under the impugned notifications the land measuring 8 kanals of rectangle No. 43 khasra no. 7 over which superstructure of Dilbagh Singh, petitioner, existed.

6. If the parties object to the proposed order as above, they may move High

Court with objection petition within two months for the disposal of the writ petition on merits according to law.

Copy of the order be supplied to the counsel for the parties.

7. Petition allowed.