
(1984) 04 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2326 of 1982

Diwan Chand Saini

APPELLANT

Vs

State of Punjab - Petitioner

RESPONDENT

Date of Decision : 09-04-1984

Acts Referred:

Citation : (1984) ILR (P&H) 374 : (1984) PLJ 246 : (1984) RRR 68

Hon'ble Judges : S.S.Kang, J

Advocate : S.P. Jain, Advocate., Advocates for appearing Parties

Judgement

S.S. Kang, J. (Oral)

1. This order will dispose of Civil Writ Petitions No. 1503 and 2326 of 1982 as common question of law and fact are involved.

2. Briefly stated the facts are that the Improvement Trust, Hoshiarpur, respondent No. 2, prepared Development Scheme No. 1 vide Resolution No. 3 dated December 11, 1974. It comprised an area of 33 acres of land in Arya Nagar Hari Nagar, Hoshiarpur. The lands of the petitioners are included in this Scheme. This Scheme was published, as required by section 36 of the Punjab Town Improvement Act, 1922 (hereinafter called 'the Act') in the Official Gazette, shortly thereafter. The State Government accorded sanction to the Scheme and a notification under section 41(1) of the Act was published in the Official Gazette dated December 2, 1976. On June 14, 1978 more than 200 citizens of Hoshiarpur made a representation to the Improvement Trust that the Scheme was not viable and the same should be dropped. On October 27, 1978, the Trust passed a resolution recommending to the State Government the dropping of the Scheme. No steps were taken by the authorities to finalise the acquisition of the land and implementation of the Scheme till mid March, 1982. The Government, however, did not accept this proposal of the Improvement Trust. The Land Acquisition Collector, Improvement Trust, Hoshiarpur, issued notices under section 12(2) of the Land Acquisition Act to the landowners indicating that compensation for their lands had been assessed by the Collector

vide award dated May 22, 1978, and if they were willing to accept the amount of compensation they should present themselves before the Land Acquisition Collector. A copy of one of such notices dated March 16, 1982, is appended as Annexure P4. The Collector did not serve notice on the petitioners before determining the compensation. So, they could not project their view point and support it by evidence.

3. It has been vigorously argued by Mr. S.P. Jain, the learned counsel for the petitioners that the issuance of the notifications under sections 36 and 42 of the Act and the subsequent proceedings are not bona fide. The land was not required for any development purpose. The acquisition proceedings had been taken solely for the purpose of pegging down the prices to the 1974 level.

4. These allegations, no doubt, have been controverted in the written statement filed by the Trust, but it has been stated in paragraph 4 of the reply that till the Janata Government remained in power the Trust was not allowed to take any concrete step for the implementation of the Scheme. The conspectus of the facts of the case does lend credence to the contention of the learned counsel. The notification under section 36 of the Act had been published sometime in 1974. The Trust had deposited a sum of Rs. 6,16,658/ on March 31, 1981, and a further sum of Rs. 2,27,010/ on February 1, 1982, with the Land Acquisition Collector for payment of compensation to the landowners. Even after 7 long years of the publication of the Scheme only about onethird of the compensation to be paid to the landowners has been deposited with the Collector. It has been specifically averred in paragraph 17 of the writ petition that the Land Acquisition Collector had assessed the compensation for the land acquired for the Scheme at Rs. 23,57,181/. This assertion has not been specifically denied. The Trust could not take possession of the land without depositing compensation. If the authorities were really serious and required the land for the development of the town they would have taken seven years for depositing about onethird of the compensation of the land. It is well settled within this jurisdiction that inordinate and unexplained delay in the finalization of the acquisition proceedings under the Act may will taint the proceedings with the vice of colourable exercise of power and thus vitiate the same. (See in this connection *Radhey Sham Gupta and others v. State of Haryana and others*, 1982. Revenue Law Reporter 426; *Smt Ranjit Kaur and others v. State of Punjab and another*, 1983 Revenue Law Reporter 154 and *Ranbir Kumar Arora and others. v. The State of Haryana and others*, 1983 Revenue Law Reporter 321. In the present case there is no cogent explanation for the long delay in finalization of the acquisition proceedings.

5. For the above reasons, I allow these writ petition (Nos. 1503 and 2326 of 1982) and quash notifications under sections 36 and 42 of the Act and the subsequent proceedings. However, it is made clear that it will be open to the authorities to proceed with the matter afresh in accordance with law. No cost.