
(2008) 04 P&H CK 0098
In the Punjab And Haryana At Chandigarh

Hari Ram

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-04-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 16, 17, 31, 4, 6

Citation : (2008) 152 PLR 30 : (2008) 3 RCR(Civil) 652

Hon'ble Judges : Sabina, J;M.M. Kumar, J

Bench : Division Bench

Judgement

M.M. Kumar, J.—This petition is directed against the notifications dated 5.3.1990 and 28.2.1991 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for brevity "the Act") (Annexures P-4 and P-5 respectively). Even the award dated 22.2.1993 (Annexure P-6) has also been challenged.

2. The principal ground of challenge in this petition, filed after fourteen years of the award, is that the possession of the land has not been taken, which is sought to be shown from the revenue record known as Khasra Girdawari (Annexure P-7) of the years 2001 to 2006. The petitioner has also taken the plea that in terms of Section 31 of the Act, the compensation has not been deposited with the Land Acquisition Collector and that some land has been released on 25.6.2004 (Annexure P-8) by respondent No. 2 in favour of certain persons.

3. In the written statement, the stand taken by the respondents is that no writ petition would be maintainable after such an inordinate delay. On merit it has been asserted that the petitioners were not owner/tenant or interested person on the date when notification under Sections 4 and 6 of the Act were issued in the year 1990 and 1991 (P-4 and P-5) and award was announced on 22.2.1993 (P-6). As a matter of fact mutation in favour of the petitioner was sanctioned only on 17.4.1998 (Annexure R-IV) i.e. more than five years after announcement of the award. The respondents have also asserted in para Nos. 7 and 8 of the reply that the petitioner is in illegal possession over the land in dispute because after announcement of the award on 22.2.1993, possession of the land in dispute

was taken over from the land owners and handed over to the Estate Officer, HUDA, Kaithal. It has also been asserted that the petitioner and other owners of land in dispute did not approach the respondents for receiving the amount of compensation by completing all the formalities required for disbursement of the compensation till date. According to the respondents, the land owners are even today free to receive the compensation at any time from the office of the answering respondent, after completing all the formalities.

4. To support the aforesaid stand an additional affidavit dated 2.11.2007 by the Land Acquisition Collector, Panchkula has been filed bringing on file the revenue record for the years 1990-91 (Annexure R-1), 1995-96 (Annexure R-II) and 2000-01 (Annexure R-III) mutation No. 7686 (Annexure R-IV) and 7687 (Annexure R-V). The Estate Officer, Huda Kaithal has also filed his reply taking a stand that all the proceedings have been taken in accordance with the provisions of the Act.

We have heard learned Counsel for the parties at a considerable length and find that the challenge to the acquisition proceedings can not be sustained. The acquisition proceeding culminated in the announcement of award on 22.2.1993 (Annexure P-6). It has come on record that the petitioner was nowhere in picture on the date of announcement of the award. It is conceded position that mutation in favour of the petitioner was sanctioned on 17.4.1998. The petitioner could have easily approached respondent No. 2 i.e. Land Acquisition Collector, Urban Estate, Panchkula for disbursement of the compensation amount, if he is in a position to prove that he has acquired proprietary rights in the land in dispute in 1983 by registered sale deed and mutation has been entered on 17.4.1998. Therefore, we uphold the acquisition proceedings and repel the challenge at the instance of the petitioner. The contention that possession of the land has not been taken, based on copies of revenue record i.e. Khasra Girdawari in respect of the years 2001 to 2006, has failed to impress us because once the award is announced and the proceedings under Sections 16 and 17 of the Act are undertaken then the land by process of law is deemed to vest in the State. Accordingly, the State, after acquisition, has handed over the possession of the land to respondent No. 3 as has been rightly asserted in the written statement. In that regard we may place reliance on a judgment of Hon"ble Supreme Court in the case of Balmokand Khatri Educational and Industrial Trust, Amritsar Vs. State of Punjab and others, .

5. The other argument that the compensation has not been paid or deposited also fails to persuade us because the petitioner was nowhere in picture till 17.4.1998 when the mutation was entered in his name (Annexure R-IV). Therefore, the aforementioned plea would not be available to the petitioner. The other submission that the land has been released in favour of some other persons would also not constitute a valid ground for the petitioner to urge for release of his land because if an illegal act has been done, proper course is to challenge such an order rather than placing reliance on the same. Therefore, the

last submission has also failed to impress us.

6. In view of the above, we uphold the acquisition proceedings. However, we grant liberty to the petitioner to approach the Land Acquisition Collector, Panchkula-respondent No. 2 for disbursement of compensation to him as he has been owner since 1983 and mutation in his favour could be entered only on 17.4.1998. If the petitioner makes a comprehensive representation to respondent No. 2 within a period of two weeks from today, the same shall be looked into by respondent No. 2 and the decision thereon shall be taken within a month from the date of receipt of such a representation. The writ petition stands disposed of in the above terms.