
(1994) 08 DEL CK 0048

In the Delhi High Court

Case No : Civil Writ Appeal No. 2098 of 1994

Harminder Singh and Others

APPELLANT

Vs

Land Acquisition Collector and Another

RESPONDENT

Date of Decision : 19-08-1994

Acts Referred:

Citation : (1994) 4 AD 225 : (1994) 56 DLT 529

Hon'ble Judges : Devinder Gupta, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : B.S. Mathur, for the Appellant;

Judgement

Devinder Gupta, J.

(1) Despite service, respondents have not appeared this matter. Since the matter is short, we issue rule, D.B. and proceed to dispose the same.

(2) By invoking urgency clause contained in Section 17 of the Land Acquisition Act, 1894 (for short the "Act"), property of the petitioner was acquired through notification issued under Sections 4,6 and 17 of the Act on 27.7.1984 and within days after the publication the petitioners were dispossessed. It is the petition encase that without serving any notice on them and in their absence award was made on 7.3.1985. It was neither filed in the office of the Collector, Land Acquisition nor had they any knowledge about the same. After making of the award, no notice; is required under Sub-section (2) of Section 12 of the Act was issued. It was in the month of June/July 1985 that petitioners acquired knowledge that some award had been made by the Collector. It was only an intimation received by them of making an award and not about the particulars thereof. It is also their case that an application thereafter was made by them for realizing the amount of compensation and ultimately the Collector, Land Acquisition paid the amount of compensation to them which was received under protest and immediately thereafter on 16.10.1985 an application u/s 18 of the Act was made seeking reference to the Court for determination of the amount of

compensation. Since petitioner received the amount of compensation under protest and did not accept the award, reference ought to have been made for which a prayer was made within limitation from the date of knowledge. By filing this writ petition under Article 226 of the Constitution of India petitioners are seeking directions against respondent No. 1 for making the reference in accordance with law to the Court for determination of amount of compensation since more than eight years have passed and reference has not been forwarded .

(3) The aforementioned submissions of the petitioners made in the writ petition are duly supported on the affidavit of Harminder Singh, one of the petitioners. A copy of the application u/s 18 of the Act has been appended to the writ petition. Since despite service, the respondents have failed to put in appearance and oppose this writ petition, there is no option except to take the averments made in the petition to be correct, for the purpose of deciding this writ petition.

(4) In case by invoking urgency clause, the petitioners were deprived of their property and had no knowledge of making the award and no notice u/s 12(2) of the Act was served upon them, we see no reason as to why respondent No.1 has withheld the application for reference and did not make reference in accordance with law. In case petitioners were not present on the date of making of the award and had no knowledge of the same, the limitation would start running only from the date when the petitioners acquire knowledge not only on making of the award but also the particulars of the same such as, rate of compensation awarded, the area acquired etc. Application made on 16.10.1985 from the date of knowledge of award is, thus, in time. Considerable delay has already occurred in the matter since the petitioners were deprived of the possession of property more than 10 years ago. There is no reason why in these circumstances reference for determination of compensation be withheld.

(5) Consequently, we allow the writ petition and direct respondent No.1 to make reference in accordance with law to the Court for determination of the amount of compensation payable to the appellants. Such reference will now be forwarded to the Court along with relevant documents within a period of three months from the date of receipt of the writ order. Rule is made absolute.