

(2020) 09 SHI CK 0286

In the High Court Of Himachal Pradesh

Case No : Civil Miscellaneous Petition No. 6028 Of 2020 In Regular First Appeal
No. 388 Of 2020

Himachal Pradesh Power Corporation Ltd. & Another

APPELLANT

Vs

Indira & Others

RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Land Acquisition, 1894 — Section 5, 11, 17, 17(3A), 18, 19, 19(1)(a), 19(1)(b), 19(1)(c), 19(1)(d)

Citation : (2020) 09 SHI CK 0286

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Shashi Shirshoo, Ajay Chauhan, Raju Ram Rahi

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. This application has been filed seeking direction to the non-applicants/appellants to deposit entire enhanced amount of compensation in the Registry of this Court. It is complained on behalf of the applicants/respondents/claimants that non- applicants/appellants, in compliance of order dated 29.11.2018, whereby execution and operation of the impugned Award was stayed till further orders but subject to deposit of entire awarded amount alongwith up-to-date interest, have not deposited entire amount of compensation.

2. In response to the application, it is contended by and on behalf of non-applicants/appellants that compensation amount, specifically with respect to those Khasra numbers, which were mentioned in Reference Petition by the applicants/ respondents/claimants, has been deposited but not qua other Khasra numbers as non-applicants/appellants are not liable to deposit the amount with respect to rest of the Khasra numbers.

3. Sections 18 and 19 of the Land Acquisition, 1894 (hereinafter referred to as

'the Act'), are relevant for deciding present controversy, which read as under:-

"18. Reference to Court.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

19. Collector's statement to the Court.-(1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,-

(a) the situation and extend of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11;

[cc) the amount paid or deposited under sub-section (3A) of section 17; and]

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement, shall be attached a Schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested, respectively."

4. Learned counsel for the applicants/respondents/ claimants, to advance his cause, has also relied upon judgment of the Apex Court in Ram Kumar and others vs. Union of India and others, (1991) 2 SCC 247, wherein it is held as under:-

"... .. Under Section 18 of the Act the only requirement for the person interested who had not accepted the award was to move a written application to

the Collector requiring that the matter be referred for the determination of the Court. One of the grounds for not accepting the award was the amount of compensation. Once such application was moved it was the duty of the Collector to make a reference to the court. Under Section 19 of the Act while making the reference the Collector was required to state for the information of the court the particulars as mentioned in clauses (a) to (d) of sub-section (1) of Section 19 of the Act. Thus it was the duty of the Collector to mention not only the situation and extent of land but even particulars of any trees, buildings or standing crops thereon. The khasra No. or area as entered in the revenue records and the Union of India or the State acquiring such land should not be allowed to take any advantage of such ignorance of the agriculturists. Once an application is moved for making a reference under Section 18 of the Act it becomes the duty of the Collector to send full information to the court regarding the entire land acquired and it is thereafter the duty of the court to decide the matter in accordance with law.

5. On perusal of record, it is found that Collector has made reference to the Court under Section 18 of the Act and in column No.5 thereof, he has given detail of name and address of persons found to be interested in the land and nature of each person interested wherein he has communicated two names Indira Devi and Kamla Devi as owners of 128867/8302800 with mention of land as Khata No.85.

6. In Reference Petition, submitted by and on behalf of Indira Devi and Kamla Devi, 20 Khasra numbers measuring 196 Bighas 3 Biswas, situate in Mohal Jaincha Majhai Sub-Tehsil Dadahu, District Sirmour, H.P., in Khata Khatauni No.85/11 min, have been mentioned. In case any Khasra number pertaining to Khata Khatauni No.85 has been left out in the petition then also, it does not make any difference as reference of Khata Khatauni No.85 has been given by the Collector in his reference to the Court.

7. In view of above, especially for provisions of Sections 18 and 19 of the Act and pronouncement of the Supreme Court in Ram Kumar's case supra, I find that Award of the Reference Court shall cover all Khasra numbers belonging to the claimants falling in Khata Khatauni No.85, as communicated by Collector.

8. Therefore, non-applicants/appellants are directed to calculate amount accordingly and deposit the same in the Registry of this Court within six weeks from today, if not already deposited.

Application stands disposed of.