
(2001) 01 P&H CK 0169

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 4085 of 1998

Jagir Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 22-01-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 25, 4

Citation : (2001) 3 RCR(Civil) 672

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. M.L. Sharma, for the Appellant; Mr. Sultan Singh, AAG, for the Respondent

Final Decision : Allowed

Judgement

R.L. Anand, J.—This is a regular first and has been directed against the judgment dated 29.7.1998 passed by the Addl. District Judge, Ambala, who dismissed the application u/s 18 of the Land Acquisition Act by holding as follows :—"4. The petitioners failed to adduce any evidence to prove the issue No. 1 in their favour. On 29.7.1998 neither the petitioners nor any witness nor their counsel appeared on behalf of the petitioners and their evidence was ordered to be closed. There is no material on the file to determine the market value of the land in question. However, in accordance with the provisions of Section 25 of the land Acquisition Act, the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector u/s 11 of the Land Acquisition Act. Consequently, it is held that the amount of compensation awarded by the Collector is just and adequate and no case for enhancement of compensation is made out. The parties are left to bear their own costs. The references are disposed of accordingly. Counsel's fee is assessed as Rs. 500/- in each case. Memo of costs be prepared and file be consigned to record room."

2. Some facts can be noticed in the following manner :-Appellant Jagir Singh and others filed a petition u/s 18 of the Land Acquisition Act for the enhancement of

compensation against the order of the Collector. Three land references were referred to the Court u/s 18 of the Act and all were consolidated vide order dated 28.2.1997 and it was also ordered that the evidence will be recorded in case titled Jagir Singh v. State.

3. Following issues were framed by the Addl. District

Judge, Ambala on 28.2.1997 :-

" 1. What was the market value of the acquired land at the time of notification u/s 4 of the Land Acquisition Act, 1894 ? OPP

2. Whether the petition is not maintainable as alleged ? OPR

3. Relief."

4. It appears from the record that this case was fixed for the evidence of appellant/petitioners on 29.7.1998. Of course, on that date neither the petitioners nor any witness was present, resultantly their evidence was closed by order and the award of the Collector was approved.

5. I have gone through the impugned judgment dated 29.7.1998 and in my opinion the learned Addl. District Judge, Ambala committed a patent illegality by closing down the evidence of the petitioners in haste. The land references are sensitive matters and these cannot and should not be taken very casually as has been taken up by the learned Addl. District Judge. If the petitioners/claimants were negligent in not bringing/producing their evidence on 29.7.1998, some costs could be imposed upon them, but to deprive them of their legal valuable right with regard to the immovable property in the fashion as has been adopted by the Addl. District Judge, he has committed illegality and impropriety. He has contributed miscarriage of justice to the disadvantage of the appellant.

6. In this view of the matter, I allow this appeal and set aside the award dated 29.7.1998 and remand the case to the Court of Addl. District Judge, Ambala with the direction to restore the reference to its original number and decide the same in accordance with law. With the allowing of this appeal. RFA Nos. 4086 and 4087 of 1998 are also allowed in the light of same observations as made in this appeal. Directions are also given to the Court of Addl. District Judge, Ambala to revive the proceedings of those two references which are also subject matter of RFA Nos. 4086 and 4087 of 1998 and now all the three references shall be decided together by giving two opportunities to the appellant/claimants to lead their entire evidence on the issues framed by the Court on 28.2.1997.

7. Parties through their counsel are directed to appear before the learned Addl. District Judge, Ambala on 26.2.2001.

8. Records be sent to the trial Court.

Copy of this order be placed on the files of RFA Nos. 4986 and 4987 of 1998.

9. Appeal allowed.