

(1987) 07 P&H CK 0025
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1188 of 1986

Jasmel Kaur

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 15-07-1987

Acts Referred:

Citation : (1987) PLJ 655 : (1987) RRR 402

Hon'ble Judges : D.V.Sehgal, J

Advocate : Mr. A.S. Chahal, Advocate., Advocates for appearing Parties

Judgement

D.V. Sehgal, J. (Oral)

1. The land of the petitioner along with a big chunk of land belonging to other land owners was acquired under the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short 'the Act'). Section 8 of the Act provides that in case the landowner is not satisfied with the compensation awarded by the Collector for acquisition of the land a reference for arbitration can be claimed within the prescribed time. It is not in dispute that the petitioner did not claim any such reference. However, a number of other landowners claimed reference and the matter for redetermination of compensation payable for the land acquired was decided by Shri M.S. Ahluwalia, the learned Additional District Judge, Bhatinda, who was appointed Arbitrator, vide his award dated 19.1.1985. The compensation payable was substantially enhanced.

2. Taking resort to the provisions of section 28A of the Land Acquisition Act as inserted by Central Act No. 68 of 1984, the petitioners made an application before the Special Land Acquisition Collector on 12.4.1985 praying that the amount of compensation payable to them should be redetermined on the basis of the compensation awarded by the learned Arbitrator in case of the other landowners vide award dated 19.1.1985. This application has, however, been dismissed by the Special Land Acquisition Collector vide his order dated 23.12.1985 which is the subjectmatter of the present revision petition.

3. The solitary ground on which the claim of the petitioners has been negated through the impugned order is that the provisions of Section 28A of the Land Acquisition Act do not govern acquisition of land and determination of compensation including payment of the same under the Act. The view taken by the Special Land Acquisition Collector is clearly erroneous. It has been held by a Full Bench of this Court in Hari Krishana Khosla and others v. The Union of India, and another, A.I.R. 1975 Punjab & Haryana 74, that the provisions of the Act so far as they deny the benefits which are made available to the landowners in case of acquisition of land under the Land Acquisition Act are violative of the rule of equality enshrined in Article 14 of the Constitution. The owners of the land acquired under the Act are entitled to claim and receive the same benefits as are available under the Land Acquisition Act. I have no hesitation in holding that in the absence of any analogous provision in the Act corresponding to the one contained in section 28A of the Land Acquisition Act the provisions of the same can be taken resort to for redetermination and payment of compensation. Therefore, the impugned order cannot be sustained.

4. Consequently, I allow this revision petition, set aside the order dated 23.12.1985 passed by the Special Land Acquisition Collector, Jalandhar, and direct him to redetermine and pay the compensation to which the petitioners are found entitled on the basis of the award dated 19.1.1985 made by the learned Arbitrator on the reference made by the other landowners.

5. The petitioners through their learned counsel are directed to appear before the Special Land Acquisition Collector, Jalandhar, for taking further proceedings on 17.8.1987. There shall, however, be no order as to costs.