
(2017) 02 P&H CK 0205
In the Punjab And Haryana At Chandigarh
Case No : RFA No.3955 of 2016 (O&M)

Jasmer Singh

APPELLANT

Vs

State of Punjab through Collector, Ludhiana

RESPONDENT

Date of Decision : 06-02-2017

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2017) 2 PLR 811

Hon'ble Judges : Arun Palli, J.

Bench : Single Bench

Advocate : Ms. Monika Jalota, Advocate, for the Appellant; K.K. Gupta, Addl. A.G. Punjab, for the Respondents

Final Decision : Allowed

Judgement

Arun Palli, J. (Oral)—Claimant-landowner is in appeal against the award dated 27.07.2016, rendered by the reference Court. Vide impugned award, the reference Court has remitted that matter to the Collector for redetermination of the market value of the acquired land. The conclusion arrived at reads thus:-

"Similarly, the petitioner has also proved on record various other documents showing that the compensation awarded to him is highly inadequate and the amount paid to him is on lower side. However, the fact remains that it is the prerogative of the respondents department to make correct assessment and to make payment of compensation to the petitioner. Therefore, respondents are directed to decide the matter afresh regarding assessment of compensation keeping in view all the documents placed and proved on record by the petitioner and thereafter to make the payment of enhanced compensation within the period of three months from the date of this order. As such, this issue is decided accordingly".

2. Learned counsel for the appellant submits that the award in question is per se unsustainable, for, once the dispute under Section 18 of the Act was referred, the

reference Court was obliged to answer the reference on merits. In a nutshell, it is submitted that the course followed by the reference Court is contrary to the scheme of the Act, and the settled law. In support of her contention she has placed reliance upon a decision of the Hon''ble Supreme Court in *Chimanlal Hargovinddas v. The Special Land Acquisition Officer, Poona* and another 1988 LACC 491.

3. Learned State counsel does not dispute the proposition of law that the reference Court cannot remit the matter to the Land Acquisition Collector, for consideration.

4. I have heard learned counsel for the parties and perused the records.

5. Ex facie, the reference Court recorded in no uncertain terms that the evidence led by the claimants proved that the compensation awarded by the Collector was highly inadequate. And, yet proceed to observe that it was the prerogative of the respondents department to make the correct assessment and award appropriate compensation to the claimants.

6. Needless to assert that the reference Court while deciding a claim under Section 18 of the Act does not set in appeal against the award rendered by the Collector. Once a reference under Section 18 is made, the Court is obliged to answer the same on merits. The amount assessed and awarded by the Collector is merely an offer made by the Land Acquisition Officer and the Court is not required to approve or dis-approve the conclusion reached by the Collector. The objections/claim under Section 18 is in the nature of original proceedings before the reference Court. Thus, the Court is required to determine the market value of the acquired land afresh in the wake of the evidence led by the parties.

7. That being so, the only and the inevitable conclusion one could reach is that the impugned award is not sustainable. It is brought to my notice that although, this Court had stayed the operation of the impugned award on 19.10.2016, yet the Land Acquisition Collector, in terms of the directions issued by the reference Court has re-decided the matter, vide order dated 21.11.2016. Be that as it may, once the award rendered by the reference Court itself is being set aside, the order passed by the Collector, which is just a consequence thereof, shall also pale into insignificance.

8. In conspectus of the above, the appeal is allowed. The impugned award dated 27.07.2016 is set aside. The reference Court is directed to re-decide the matter, in the wake of the evidence that has been led by the parties, and in accordance with law. Parties shall appear before the reference Court on 27.02.2017.