
(1997) 07 P&H CK 0168
In the Punjab And Haryana At Chandigarh
Case No : Letters Patent No. 166 of 1987

Joginder Singh

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 02-07-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 11A

Citation : (1997) 117 PLR 268 : (1997) 4 RCR(Civil) 10 : (1998) 1 RCR(Civil) 94

Hon'ble Judges : T.H.B. Chalapathi, J;R.S. Mongia, J

Bench : Division Bench

Advocate : V.G. Dogra and Rajesh Chowdhary, for the Appellant; Amol Rattan, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

R.S. Mongia, J.—The appellants had challenged by way of writ petition viz. CWP No. 4866 of 1986, the validity and legality of the notifications dated October 30, 1981 and September 16, 1982 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 and the notice dated August 29, 1986 issued u/s 9 of the Act by which the land was sought to be acquired. That writ petition having been dismissed by the learned Single Judge, the appellants have come up in the present appeal.

2. The appellants are the residents and land owners of village Chaura, Tehsil and District Karnala. Their land was sought to be acquired by the aforesaid notifications for a public purpose, namely "for the extension of Abadi of Village Chaura." It may be observed here that the appellants had challenged the aforesaid notifications by an earlier writ petition viz. C.A. 4851 of 1982, which was dismissed by this Court on February 1, 1983, against which the petitioners had filed SLP (Civil) No. 2365 of 1983 and the same was also dismissed by the Apex Court on March 11, 1983. The second writ petition No. 4866 of 1986 was filed on September 10, 1986 and the Motion Bench had stayed the pronouncement of the award by the Land Acquisition Collection till further orders

on September 11, 1986. The second writ petition was filed primarily on the ground that even after the dismissal of the writ petition and SLP no steps were taken by the respondent-State to complete the acquisition proceedings. Following points were raised by the learned counsel for the appellants petitioners before the learned Single Judge to assail the notifications:-

i. After the dismissal of the SLP by the Supreme Court in March, 1983 no steps were taken for completion of the proceeding for the acquisition of land. It is a clear indication that the notifications were issued with a view to peg down the prices;

ii. The provisions of Section 11-A of the Act have not enlarged the time for completion of the acquisition proceedings; they have rather curtailed it; and

iii. The land was not being acquired for a public purpose. The persons for whose benefit the land is sought to be acquired own lands near the present village abadi.

3. Learned Single Judge finding no merit in any of the points raised by the learned counsel for the petitioner dismissed the writ petition. Hence the present appeal.

4. While admitting the present appeal, the Motion Bench had stayed the dispossession of the appellants till further orders. Learned counsel for the respondents informs us that on March 3, 1987, the award was announced by the Land Acquisition Collector.

5. The points, which were urged before the learned Single Judge, have been reiterated again in the present appeal.

6. It is not necessary to go into the points (i) & (iii), referred to above, inasmuch as the earlier writ petition filed by the petitioners (CWP 4851/82) stood already dismissed and even the SLP filed by the appellants was dismissed by the Apex Court.

7. Section 11-A was incorporated in the Land Acquisition Act by Land Acquisition (Amendment) Act, 1984 (Act No. 68 of 1984) w.e.f. September 24, 1984 providing that the Collector shall make an award u/s 11 within a period of two years of the dated of publication of the declaration and in a case where the said declaration for acquisition has been made before the commencement of the Land Acquisition (Amendment) Act of 1984 the award shall be made within a period of two years from the date of commencement of the Land Acquisition (Amendment) Act.

For ready reference Section 11-A may be reproduced, thus:-

"11-A. Period within which an award shall be made:-

The Collector shall make an award u/s 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the land shall lapse;

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.- In computing the period of two years referred to in this section, the period during which any section or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded".

8. Learned counsel for the appellants argue that the respondents slept over the matter for quite some-time even after the dismissal of the Special Leave Petition, on March 11, 1983, and they cannot be allowed to take any benefit of Section 11-A of the Act (supra). Learned counsel further argued that Section 11-A gives two years" period to the Collector to announce the award after the declaration is made for the acquisition of the land. However, the provision gives two years" period for making an award by the collector from the commencement of the Amending Act (24.9.1984), in case the declaration for acquisition had been made prior to the date of the commencement of the Amending Act. According to the learned counsel for the appellants, the proviso is wholly arbitrary as the land acquisition proceedings may have been pending much more than two years prior to the commencement of the Act yet the respondents were being given another period of two years to make the award from the commencement of the amending Act. Apart from the fact that the proviso to Section 11-A had not been challenged in the writ petition, we are of the view that the Legislature in its wisdom thought that the land acquisition proceedings should be completed expeditiously and the period and should not exceed two years. However where the proceedings were already pending and had been delayed at the time of commencement of the Amendment Act, the Legislature in its wisdom thought that it must provide two years from the date of the commencement of the Amending Act to complete the proceedings so that the proceedings which were already pending may not be kept pending for an inordinate period. The Apex Court in *Kaliyappan Vs. State of Kerala and Others*, , observed that if the proceedings for acquisition, which had commenced prior to the commencement of the Amending Act, are completed within two years of the enforcement of the Amending Act i.e. 24.9.1984, no fault could be found with the acquisition. It may be observed that explanation to Section 11-A provides that if there is any stay regarding the acquisition proceedings by a competent Court that period shall have to be excluded. When the notice in the present case was issued to the appellants, two years had not elapsed of the commencement of the Amending Act. The award could be made upto September 24, 1986. The appellants filed the present writ petition on September 10, 1986, and the stay order prohibited the collector to make an award within two years of the commencement of the Amending Act. After the dismissal of the writ petition on March 23, 1987 the award has been made on March 31, 1987, as the Motion Bench while admitting the appeal had only stayed the dispossession of the appellants and not further proceedings regarding acquisition.

9. For the foregoing reasons we do not find any merit in this appeal, which is hereby dismissed. However, there shall be no order as to costs.