
(2002) 05 P&H CK 0119
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1752 of 2002

Karam Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 22-05-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 6

Citation : (2003) 1 RCR(Civil) 294

Hon'ble Judges : H.S. Bedi, J; Ashutosh Mohunta, J

Bench : Division Bench

Advocate : Naresh Kaushal, for the Appellant; A.S. Virk, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

H.S. Bedi, J.—Written statement filed on behalf of respondent Nos. 1 to 4 taken on record.

We have heard the learned counsel for the parties.

2. The petitioners own land in village Sultanpur, Tehsil and District Rupnagar. The State Government issued a notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"), for acquisition of land for construction of a Ring Bund. A declaration u/s 6 of the Act, was published on February 04, 1997 invoking the urgency provisions u/s 17 of the Act. The respondent-department took possession of the land and the necessary development was made. It is the petitioners' case that despite the clear directive given in Section 17 of the Act, that 80% of the compensation was to be paid to the petitioners at the time of taking over of possession of the land, no compensation had been paid up to date and that in any case, the entire proceedings were deemed to have lapsed in the light of Section 11A of the Act.

3. In the reply filed today in Court on behalf of the respondents, it has been admitted that no compensation had so far been paid nor the award rendered and

justification for the in-action has been sought from the fact that the dealing officer had been transferred.

4. It has been argued by Mr. Naresh Kaushal, the learned counsel for the petitioners that by virtue of Section 11A of the Act, the entire proceedings were deemed to have lapsed. We reproduce Section 11A of the Act as under:-

"[11A. Period within which an award shall be made.- (1) 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 acquisition of 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 action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded].

5. The aforesaid section specifically provides that if the award is not rendered within two years from the date of the declaration u/s 6 of the Act, the entire proceedings for the acquisition of the land shall lapse.

6. As already mentioned above, the declaration u/s 6 of the Act had been made and published on February 04, 1997 and the award has not been rendered till the date. The entire proceedings would, thus, in our opinion deemed to have lapsed.

7. We are further of the opinion that the petitioners are also entitled to damages. The land acquired (which is 47 kanals 19 marlas) corresponds to about 6 acres. We, accordingly, determine the damages to be paid to the petitioners at the rate of Rs.4000/- per acre per year from the date of taking over of its possession. We, however, leave it open to the petitioners to seek higher damages before an appropriate forum. The petitioners are also entitled to costs which are assessed at Rs.10,000/-. The writ petition is allowed in the above terms.

Sd/- Ashutosh Mohunta, J.