

(1994) 01 P&H CK 0010

In the Punjab And Haryana At Chandigarh

Case No : Amended Civil Writ Petition No. 4030 of 1986

Karam Singh

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 04-01-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Land Acquisition Act, 1894 — Section 11, 11A

Citation : (1994) 106 PLR 558

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : P.S. Saini and Rajneesh Narula, for the Appellant; S.S. Khetarpal, D.A., for the Respondent

Final Decision : Allowed

Judgement

V.K. Jhanji, J.—State of Haryana issued notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) on 11.3.1981, showing its intention to acquire land for development and utilization of land as residential and commercial area for sectors 5 and 7 in village Devi Dass Pura, District Kurukshetra. Objections u/s 5A of the Act were invited which were filed by the petitioner on 10.4.1981. In the said objections, petitioner stated that business is being run on the land and he has constructed rooms as well as Atta Chakki. Objections were dismissed and in consequences thereof, notification u/s 6 of the Act was issued on 14.12.1983. Award for the land was announced on 12.9.1986. A supplementary award for super-structures was announced on 27.5.1987. The present writ petition has been filed, impugning the notifications under Sections 4 and 6 of the Act. as well as the award and the supplementary award, on the ground that u/s 11A of the Act, a single award could be made for the land and super-structures within two years from the date of publication of the declaration u/s 6 of the Act, and if no award is made within that period the entire proceedings for acquisition of land stand lapsed.

2. In the written statement filed the stand of the respondents is that only one room in a bad shape on Khasra No. 8/21/1 was in existence at the time of issuance of notification u/s 4 of the Act and it was only after issuance of notification u/s 4 of the Act, the petitioner raised three more rooms with boundary wall and the supplementary award No. 1 in respect of all structures was made and announced on 27.5.1987 after receiving the assessment from the technical experts. According to the respondents, the supplementary award was only in continuation of earlier award and this does not vitiate the acquisition proceedings because the original award was announced on 12.9.1986, i.e. within two years from the date of publication of the declaration.

3. Having heard the learned counsel for the parties at some length, I am of the view that the writ petition deserves to succeed. It stands settled by a Division Bench judgment of this Court in Sharan Pal Singh and others Vs. State of Punjab and others, that the land buildings standing thereon and standing crops and trees on the land constitute one unit, and the value of the entire unit has to be determined with all its advantages and potentialities. Necessary consequence will be that only one award has to be rendered for the unit. The award which was given on 12.9.1986 related only to the land and not to the super-structures. The award, thus, given on 12.9.1986 cannot be taken to be the award u/s 11 of the Act. It was only for this reason that the State decided to give a supplementary award and it was so given on 27.5.1987, i.e. beyond the stipulated period as envisaged u/s 11A of the Act. The judgment in Sharan Pal Singh's case (Supra) was followed in Civil Writ Petition No. 453 of 1987 reported as Parduman Singh v. The State of Punjab² 1993 LACC (P&H) 49. In this case, the awards were given; one for the land and the other one for the super-structures, and in these circumstances, it was held that the acquisition proceedings, insofar as these relate to that portion of the acquired land on which super-structures were standing on the date the earlier award was made, would lapse. Following the judgment of the Division Bench in Sharan Pal Singh's case and Parduman Singh's case (supra), the writ petition is allowed. The acquisition proceedings would lapse with regard to 10 marlas of land comprised in Khasra No. 8/21/1 on which super-structures of the petitioner were standing on the date of acquisition and for which award was not rendered in terms of Section 11A of the Act, as amended by Central Act, No. 68 of 1984.

4. There shall however, be no order as to costs.