
(1986) 05 P&H CK 0072
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1850 of 1986

Kartar Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 16-05-1986

Acts Referred:

Citation : (1986) PLJ 464 : (1986) RRR 225

Hon'ble Judges : I.S.Tiwana, J

Advocate : Mr. M.L. Saini, Advocates., Mr. M.L. Sharma, Advocates for appearing Parties

Judgement

I.S. Tiwana, J. (Oral)

1. The petitioners impugn the acquisition of their land vide notification Annexures P.6 and P.7 under sections 4 and 6 respectively, of the Land Acquisition Act, 1894 (for short, the Act) on the following grounds :

(i) There was absolutely no justification for invoking the urgency provisions of section 17 of the Act and depriving them of their legal right of filing objections under section 5A of the Act;

(ii) The notifications are violative of subsection (4) of section 17 of the Act which envisages that a declaration under section 6 in respect of the land in question could only be made "after the date of the publication of the notification under section 4, subsection (1) of the Act". In the case in hand both the impugned notifications were published in the Government Gazette on February 4, 1986; and

(iii) In view of the substitution of subsection (2) of section 17 vide Land Acquisition (Punjab Second Amendment) Act XLVII of 1956 (clause (b)) the urgency provisions could not at all be invoked as the land was being acquired for purpose of the Food Corporation of India for the construction of storage godowns by it.

In reply of the above noted contentions, what is highlighted on behalf of the

respondent authorities in paragraph 2 of their written statement, is as follows :

``That the disputed land required for the construction of buffer storage godowns by Food Corporation of India. Now a days there have been problem with Food Corporation of India to keep properly foodgrains in open plinths/godowns. Due to scarcity of godowns in the country, plenty of foodgrains goes waste and deteriorated due to moisture and insecticides. To face with this problem, Food Corporation of India made demand for land for construction of buffer food storage godowns. Hence these notifications were issued by the answering respondent to make available land to Food Corporation of India''.

2. Having heard the learned counsel for the parties at some length I, however, find that the petitioners deserve to succeed on the very first ground mentioned above and in view of that I need not express any opinion on the other two grounds raised on their behalf. As has already been indicated above, the land in question is being acquired for the purposes of the Food Corporation of India for constructing godowns. Now it is a purpose which can be said to be so pressing or urgent that the authorities concerned could not even afford to hear the objections of the claimants in terms of section 5A of the Act ? This is how the Supreme Court has expressed itself on this aspect of the matter in *State of Punjab v. Gurdial Singh*, AIR 1980 SC 319 :

``The fourth point about the use of emergency power is well taken. Without referring to supportive case law, it is fundamental that compulsory taking of man's property is a serious matter and the smaller the man the more serious the matter. Hearing him before depriving him is both reasonable and preemptive of arbitrariness, and denial of this administrative fairness is constitutional anathema except for good reasons. Save in real urgency where public interest does not brook even the minimum time needed to give a hearing land acquisition authorities should not, having regard to Article 14 (and 19), burke an enquiry under section 17 of the Act. Here a slumbearing process, pending for years and suddenly exciting itself into immediate forcible taking, makes a travesty of emergency powers''.

This was a case where a piece of land was sought to be acquired to build a new Mandi i.e. grain market for the purchase and sale of foodgrains and other agricultural produce.

3. To my mind, the ratio of the abovenoted judgment fully applies to the facts of this case and I am of the considered opinion that the purpose for which the land was sought to be acquired was not so pressing or urgent that it could not brook even a month's delay in affording an opportunity of hearing to the petitionerclaimants.

4. For the reasons recorded above, this petition is allowed and the impugned notifications are quashed with costs which I determine at Rs. 300/.

Petitione accepted.