

(1997) 01 P&H CK 0188

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 511 of 1986

Mohar Singh

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 27-01-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1997) 115 PLR 747 : (1997) 3 RCR(Civil) 48

Hon'ble Judges : Sarojnei Saksena, J;N.C. Jain, J

Bench : Division Bench

Advocate : M.L. Sharma, for the Appellant; A.P. Manchanda, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

N.C. Jain and Sarojnei Saksena, JJ.—This appeal, under Clause X of the Letters Patent has been filed against the judgment of the learned Single Judge dated October 7, 1985. The facts of the case lie in a very narrow compass and thus we notice the same in the first instance.

2. The land of the appellant was acquired and he being dissatisfied with the award of the Collector sought a reference u/s 18 of the Land Acquisition Act (for short the "Act") which was dismissed by the Additional District Judge on September 19, 1979. The application for restoration of the claim petition was filed by the appellant on July 31, 1980. The Additional District Judge dismissed the application on the ground of limitation as well as on merits. The appellant feeling aggrieved against the order of the Additional District Judge filed an appeal before this Court. A Single Bench of this Court has dismissed the appeal.

3. After hearing the counsel for the parties and after going through the findings recorded by the learned Single Judge and the Additional District Judge, we are of the considered view that the appeal of the appellant must succeed.

4. It has been settled in Kamla Devi v. State of Haryana 1986 (1) P.L.R. 692 that

the reference Court has got no jurisdiction to dismiss the reference u/s 18 of the Act in default and that such a petition if dismissed is liable to be restored in exercise of the inherent powers by the Court. It has further been held in Kamla Devi's case (supra) that even if no evidence has been led by the claimant, the Court has to give an award. The application in the for mentioned case for restoration was filed after 3 1/2 years.

5. In "Gurbax Singh and Ors. v. State of Punjab", 1987 92 P.L.R. 494 the period of limitation for filing an application for restoration of Reference u/s 18 of the Act has been held to be 3 years by this Court. It has further been held in Gurbax Singh's case (supra) that on account of non appearance of the claimant, reference could not be dismissed in default and that it was duty of the Court to decide the same on merits.

6. We are in respectful agreement with the views taken in the aforesaid two decisions. We are further of the view that if any mistake has been committed by the counsel before the Reference Court, the claimant cannot be made to suffer for the same. It deserves to be noticed that the case of the appellant was not the only case arising out of the acquisition. It could not be disputed before us that a big chunk of land was acquired by a common notification and several references were filed. The reference application of appellant could be decided alongwith other reference applications even if the appellant was not present and even if there was no evidence in the reference application of the appellant.

7. For the reasons recorded above, the appeal is allowed. The judgment of the learned Single Judge and that of the Additional District Judge are hereby set aside. The parties through their counsel are directed to appeal before the Additional District Judge, Karnal on 17.12.1987. The Additional District Judge is directed to decide the reference of the appellant expeditiously and preferably within a period of two months from the date the parties put in their appearance before him.

8. The records of the case alongwith a copy of the judgment be despatched to the Additional District Judge, Karnal, forthwith.