

(2001) 04 P&H CK 0098
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 1565 of 1999

Municipal Corporation, Amritsar

APPELLANT

Vs

Bhupinder Singh

RESPONDENT

Date of Decision : 17-04-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 2
Constitution of India, 1950 — Article 226, 227
Land Acquisition Act, 1894 — Section 11, 12, 18, 23(1), 26

Citation : (2001) 04 P&H CK 0098

Hon'ble Judges : M.L. Singhal, J

Bench : Single Bench

Advocate : Mr. D.K. Singal, for the Appellant; Mr. B.R. Mahajan, for the Respondent

Final Decision : Allowed

Judgement

M.L. Singhal, J.—Land Acquisition Collector gave award with respect to the land acquired for use by Municipal Corporation, Amritsar by the Govt. of Punjab in the Department of Local Govt., Housing and Urban Development u/s 11 of the Land Acquisition Act, 1894. Bhupinder Singh and others put in execution before Civil Judge (Senior Division), Amritsar for executing the award.

2. Municipal Corporation, Amritsar put in objections against the executability of the award saving that the award given by the Land Acquisition Collector u/s 11 of the Land Acquisition Act, 1984 is not "decree" of the civil court and as such cannot be executed by the civil court. These objections did not find favour with the learned Civil Judge (Senior Division), Amritsar. He accordingly dismissed these objections and directed the Municipal Corporation, Amritsar to make payment of the balance amount claimed in the execution application to the decree holders. It is this order dated 19.1.1999 of Civil Judge (Senior Division), Amritsar which has been called in question by Municipal Corporation, Amritsar through this revision.

3. Learned counsel for the petitioner (Municipal Corporation, Amritsar) has submitted that the award given by the Land Acquisition Collector u/s 11 of the Land Acquisition Act, 1894 is not decree of the court, as such, could not be executed through the civil court. In the court only "decrees" which are passed by the court can be executed. He has further submitted that it is only the award given u/s 26 of the Land Acquisition Act, 1894 which is "decree" of the civil court and is executable by the civil court. Section 26 of the Land Acquisition Act, 1894 reads as follows:-

26. Form of awards - (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of Section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2) and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908.

4. Part III which starts with section 18 namely "Reference to Court at the instance of the party interested" says that any person interested who has not accepted the award of the Land Acquisition Collector may by written application to the Collector require the determination of the Court whether the award delivered by him was commensurate with the market value of the land acquired and so on.

5. He has submitted that if a reference is made by the Land Acquisition Collector to the District Judge at the instance of any person interested that compensation awarded by him was not adequate, reasonable and just, for determination of the amount of compensation by him which could be said to be just, reasonable and adequate, the District Judge makes an award u/s 26 of the Land Acquisition Act, 1894 and that award will be "decree" of the civil court and would be executable as if it were decree of the court. In support of this submission that the award given by the Land Acquisition Collector is only an offer to the claimants. He has drawn my attention to M.S. Ramaiah and others v. Special Land Acquisition Officer, AIR 1974 Karnataka 123 where it was observed that an award made u/s 11 by the Land Acquisition Officer is in the nature of offer to the claimants and, therefore, unless award is accepted by the claimants, the same is not binding on them. Where the claimant does not accept the award and seeks a reference u/s 18 of the Land Acquisition Act, the Land Acquisition Officer is bound to make a reference to the court for determination of the amount of compensation for land acquired. When such a reference is made to the court, it is the duty of the court to determine the amount of compensation payable for the land acquired.

6. If the award delivered by the Land Acquisition Collector is accepted without any protest, that award becomes binding on the land owners. They cannot then claim any reference u/s 18 of the Land Acquisition Act to the District Judge for

determination of the amount of compensation for the land acquired. In this case, the award delivered by the Land Acquisition Collector shall be deemed to be award which is executable.

7. In *Dr. G.H. Grant v. The State of Bihar* AIR 1966 SC 237 the Hon''ble Supreme Court has observed that an award by the Collector is strictly speaking an offer made to the person interested in the land notified for acquisition, the latter may, but is not bound to accept the offer. He may ask for a reference to the court for adjudication of his claim for adequate compensation. He may accept the compensation under protest relating to the sufficiency of the amount and ask for a reference. In *Mathuri Suryanjaneyalu Vs. Thummalasetto Venkateswarlu and Others*, , it was held that under the Land Acquisition Act, the award is a mere tender of compensation made by the Collector to the owner of the land which is proposed to be acquired. The proceedings taken by the Collector are not judicial proceedings because award not being a decree cannot be enforced as such.

8. In this case, the award of the Collector is final because the decree holders were satisfied with the amount of compensation assessed by him and they did not seek any reference to the District Judge u/s 18 of the Act. The question then arises is whether this award could be executed. It is true that this award could not be executed in the civil court because the award given by the Collector is not "decree" of the civil court. It is equally true that the land owners whose land was acquired must receive the amount awarded to them by the Collector together with interest awarded by him without any further delay.

9. Learned counsel for the petitioner has submitted that 80% of the amount of compensation was paid to the land owners at the time of taking possession from them. If any amount is still due, the remedy of the land owners is to knock the door of this court and to ask for an appropriate writ, order or direct ion to the Municipal Corporation, Amritsar. It will be unjust now to ask the land owners to knock the door of this court and ask for an appropriate writ, order or direction to the Municipal Corporation, Amritsar for payment of the rest of the awarded amount to them because they have been in execution before the civil court since the year 1995.

10. Looking to the hardship of the laud owners, in exercise of the powers conferred, on this court under Article 226/227 of the Constitution of India, Municipal Corporation, Amritsar is directed to pay the amount together with interest (to be calculated by the Land Acquisition Collector) for the land acquired to the land owners within three months of the receipt of copy of this order. Land Acquisition Collector shall calculate the amount to be paid by the Municipal Corporation, Amritsar to the land owners with interest within one month of the receipt of copy of this order by him. Copy of this order shall be despatched to him by the Registry.

Subject to these observations, which are binding on all concerned, the impugned order is set aside and the revision is allowed.

11. Revision allowed.