
(1987) 02 P&H CK 0084

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 2806 of 1986

Murti Shree Ram Chander Ji Maharaj, Installed In
Thakardwara Kalan, Talab Naurang Rai

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 17-02-1987

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Land Acquisition Act, 1894 — Section 18, 30

Citation : (1988) 1 ILR (P&H) 171

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Advocate : S.K. Goyal, for the Appellant; M.S. Sullar, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Goyal, J.—Some land belonging to Thakurdwara Kalan Talab Naurang Rai, Ambala City, was acquired by the State of Haryana. Dissatisfied with the compensation awarded by the Collector, Mahant Ram Narain Dass, Respondent No. 2, got a reference made u/s 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act). When the reference was at the stage of evidence in the Court of Additional District Judge, Ambala, the Trust Thakurdwara Kalan through its Vice-President Hit Abhilashi, moved an application under Order I, Rule 10, Code of Civil Procedure, for being imp leaded as a party praying that it was the Trust which only was entitled to manage the affairs of the Thakurdwara and also entitled to the compensation. The application was opposed by Respondent No. 2 and the Additional District Judge, relying on a decision of this Court in Niranjana Singh and Others Vs. Amar Singh and Others, , dismissed the same. Hence this revision petition by the Trust.

2. At the outset, the learned Counsel for the Petitioner-Trust urged that as there is-an apparent conflict between the two Single Bench decisions of this Court in Bagh Singh and Ors. v. The Special Land Acquisition Collector, District Courts

Jalandhar and Anr. 1984 P.L.R. 568 and Niranjana Singh's case (supra) the case be referred to a larger Bench. Though seemingly there appears to be some difference of opinion so far as the applicability of the provisions of Order I, Rule 10, Code of Civil Procedure, is concerned, but a close reading of the aforesaid two decisions would show that they had been rendered on the peculiar facts of each case. In Niranjana Singh's case (supra) the dispute between one Amar Singh and the Gram Panchayat as to the title to the land was got referred u/s 30 of the Act at the instance of the former. Niranjana Singh and some other persons moved an application under Order I, Rule 10, Code of Civil Procedure, to the Court for being imp leaded as applicants or Respondents, which was dismissed. Kang, J. upheld the order of the learned Additional District Judge with the following observations:

Proceedings before the Court on a reference made by the Collector u/s 30 are of a special nature. The Court can take cognizance of the dispute regarding apportionment of compensation of the acquired land, only on a reference and the enquiry is confined to a dispute between certain parties. The Court cannot enlarge its scope by imp leading others as parties. The persons who had not appeared before the Collector and staked any claim to compensation for the land, in dispute, and have not raised any grievance as to the apportionment of compensation in the award of the Collector, cannot come forward to join issue before the Court adjudicating on the reference.

3. No doubt, the observations made in Mt. Sakalbaso Kuer Vs. Brijendra Singh and Others, , on the question whether a person who never claimed any reference u/s 30 of the Act, could be imp leaded or not by the Court were disapproved, but the learned Judge never held that the provisions of Order I, Rule 10, Code of Civil Procedure, were not applicable or that, under no circumstances, any person could be imp leaded as a party to the reference by invoking the said powers. In Bagh Singh's case (supra), a reference had been got made u/s 18 of the Act for enhancement of the compensation by one of the co-sharers. Another co-sharer moved an application under Order I, Rule 10, CPC for being imp leaded as a party to the reference, which was held competent by I.S. Tiwana, J., and the order of the trial Court declining the prayer, was reversed. The reasoning on which the application by the stranger was declined in Niranjana Singh's case (supra) obviously had no applicability on the facts of Bagh Singh's case (supra), as in the latter case the scope or nature of the reference was not going to be enlarged or changed in any manner by imp leading another co-sharer as a party to the reference. Thus, there being no conflict in the two decisions on any question of law, the prayer for a reference to a larger Bench has to be declined.

4. It is also not necessary for me in the present case to express any considered opinion whether Niranjana Singh's case (supra) was correctly decided. Here, the reference does not involve any question of apportionment and the only dispute referred to the Court was on the question of the market price of the land belonging to the Thakurdwara. If the question of apportionment between two

persons had been referred u/s 30 of the Act, it might have been possible for a third party to move an application under Order I, Rule 10, Code of Civil Procedure, for getting himself to be imp leaded. But, it would not be possible to entertain such an application when the scope of the reference is confined to the proper market price only. The jurisdiction of the Court is confined to the reference made to it by the Collector u/s 18 and it cannot enlarge its scope by invoking the provisions of Order I, Rule 10, Code of Civil Procedure. If a reference had involved a question of apportionment, a stranger, who did not move any application before the Collector, might, in a given case, be imp leaded by invoking the powers under Order I, Rule 10, CPC to settle the dispute of apportionment finally but no such consideration would be available for imp leading a third party in case like like present one which would necessarily result in the enlargement of the scope of the reference and would, in fact, introduce a new dispute not already covered by the reference. In spite of this distinction having been pointed out to the learned Counsel for the Petitioner, he could not produce even a single decision in which a third persons prayer for being imp leaded was granted when the reference did not contain any question of apportionment of the compensation. In all the three decisions i.e. Mt. Sakalbaso Kuer's case (supra), Bhadar Munda and Another Vs. Dhuchua Oraon, and Kalarikkal Lakshmikutty Amma Vs. Kankath Vettolil Kanhirapally Velappa Nair and Another, , relied upon by him, the references related to apportionment between rival claimants and a third person, who claimed the right to receive compensation, was ordered to be imp leaded as a party to settle the question finally. Consequently, so far as the present case is concerned, the Petitioner, who never made any claim before the Collector u/s 9 nor moved any application for a reference u/s 30 of the Act to assert his right to receive the compensation as opposed to the persons who got the reference made u/s 18 of the Act for enhancement of the compensation, would have no right to get himself imp leaded as a party under Order I, Rule 10 Code of Civil Procedure, and his right to receive compensation decided in that reference. This petition, therefore, must fail and is hereby dismissed but without any order as to costs.