

(1997) 03 SHI CK 0030
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 9 (sic)

Nater Singh	Vs	APPELLANT
State of Himachal Pradesh and Others		RESPONDENT

Date of Decision : 21-03-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 18(2)

Citation : (1997) 2 ShimLC 329

Hon'ble Judges : M. Srinivasan, C.J.; Lokeshwar Singh Panta, J

Bench : Division Bench

Advocate : Hans Raj, for Dharamvir Sharma, for the Appellant; Inder Singh, General for Respondent No. 1 and M.S. Chandel, for the Respondent

Final Decision : Dismissed

Judgement

M. Srinivasan, C.J.—The Petitioner is a co owner alongwith three other persons with reference to land in Khasra No 765/4, 765/2 and 775. They were acquired by the State for construction of Bus stand pursuant to a notification issued on 6-10-1977. An award was passed by the Land Acquisition Collector on 31-7-1981. One co-sharer by name Jaishi Ram sought for a reference u/s 18 of the Land Acquisition Act. The matter was referred to the Court of District Judge, Mandi. The reference was disposed of by the District Judge by judgment dated 15-3-1984. The compensation awarded by the Collector was enhanced in so far as the applicant before the District Judge is concerned.

2. The Petitioner herein was impleaded as the 3rd Respondent in the Reference petition before the District Judge. After the District Judge disposed of the proceedings, an appeal was filed in this Court in 1984 by the State of Himachal Pradesh and the Himachal Road Transport Corporation, who were the beneficiaries of the acquisition. In the appeal also, the Petitioner herein was the 2nd Respondent. In spite of the Petitioner having been a party in the Reference proceeding as well as the appeal, the Petitioner did not choose to take any appropriate proceeding either before the Collector or before the District Judge to

claim enhancement of the compensation for his share of the land. He did not avail of the provisions of Section 18 of the Land Acquisition Act and the Collector passed an award in 1981. The District Judge in his judgment in the Reference proceeding held in paragraph 21 under Issue No. 3 that the Reference being only at the instance of Jaishi Ram, the Petitioner and the other two persons could not claim enhanced compensation. In spite of that decision against the Petitioner being rendered by the District Judge as early on 15-3-1984, the Petitioner did not challenge the same by way of an appeal in this Court though he is also a party to the appeal filed by the State, namely, R.F.A. No. 38 of 1984.

3. The prayer of the Petitioner that the Respondents should be directed to pay him enhanced compensation in respect of his share in the land and also to direct apportionment of the enhanced compensation in respect of the whole land cannot be granted. The Petitioner has not availed of the statutory remedies provided under the Land Acquisition Act in the proper time. Having missed the bus, the Petitioner has now come to this Court after a period of 10 years since the judgment of the District Judge in the Reference proceeding. This writ petition has been presented in this Court only on 8-9-1994. There is no explanation also for the Petitioner not approaching this Court earlier.

4. Learned Counsel for the Petitioner places before us a judgment of the Supreme Court in A A. Viswanatha Pillai and others Vs. Special Tahsildar for Land Acquisition No. IV and others, and relies upon a passage therein to show that if some co-owners had applied for a Reference, the benefit could go to other co-owners also. It is seen from the facts of the case that the Reference Application was itself on behalf of all the co-owners though it was actually made by only one co-sharer. Further, the question arose before the Supreme Court in an appeal against the order made by the Reference Court. In those proceedings, the Court had occasion to consider whether the other co owners who were not co-naminee parties to the Reference Application could also claim the benefit of the enhanced compensation. The ruling in the said case will not in any way apply to the Petitioner herein.

5. There is no merit whatever in this case and the writ petition is dismissed. There will be no order as to costs.