
(1988) 02 P&H CK 0017
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7654 of 1987

Nathu Ram and another

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 04-02-1988

Acts Referred:

Citation : (1988) 1 ILR (P&H) 280 : (1988) PLJ 283 : (1988) 2 RRR 93

Hon'ble Judges : V.Ramaswami;CJ., J and Ujagar Singh, J

Advocate : C.B. Goel, Advocate., Advocates for appearing Parties

Judgement

V. Ramaswami, C.J.

1. The learned counsel has raised four points in this case. Firstly. he claimed that notification under section 4 of the Land Acquisition Act (for short the Act") and the declaration under section 6 are liable to be set aside on certain grounds. However, we, find that the petitioners filed an earlier writ petition C. W. P. No. 3366 of 1985 questioning the same notification and the declaration but they did not press and the same was dismissed. Therefore, that question cannot be reagitated in this petition. The second point raised by the learned counsel was that under section 11A of the Act, the award should have been made Within a period of two years from the date of declaration. In this case, the declaration was made on 10th August 1984 and the award was announced on 2nd April, 1987 and., therefore, it was barred by limitation. We are unable to agree with this contention also because under the proviso to section 11A, which reads as under, in computing the period of two years, the period during which any action or proceedings to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded :

"Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation. In computing the period of two years referred to this section, the

period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded."

There was stay in operation between 12 July, 1985 and 2nd April, 1987 and if we exclude that period, the award is in time. Equally untenable is the third contention that undersection 31, alongwith the award or simultaneously with the award, the compensation had to be deposited in Court and since that was not done in this case, the award was invalid. On making the award, the Collector has to tender the amount of compensation and if the circumstances as provided in subclause (2) of that section, exist, the amount will have to be deposited in Court. All this could be subsequent to the award and the validity of the award could not be questioned on that ground that either there was delay in depositing or delay in tendering the amount. There is no warrant for the submission that simultaneously with the passing of the award, the tender should also have been made and in fact it is impossible to make this because the tender of the money very often synchronises with the time of taking possession. In any case, we are unable to agree with the learned counsel that the award is not valid on that ground. The learned counsel then contended that in excluding certain portion of the land to be acquired, a particular temple was given more extent of land than temple in which the petitioners were interested. This cannot be a ground now because this goes to the validity of the declaration under section 6, which as already stated, had already been upheld in an earlier writ petition filed by the petitioners.

2. No other point was raised.

3. The writ petition is accordingly dismissed.