
(2000) 11 P&H CK 0247
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 17905 of 1998

Neki Ram

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 06-11-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 4, 6

Citation : (2001) 4 RCR(Civil) 33

Hon'ble Judges : K.S. Garewal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. R.K. Jain, for the Appellant; Mr. D.P. Singh, D.A.G. and Mr. O.P. Sharma, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The Government had acquired land vide notifications dated March 28, 1985 and January 16, 1986. Copies of the four notifications issued by the Government under Sections 4 and 6 of the Land Acquisition Act, 1894 have been produced as Annexures P.1 to P.4 The petitioner alleges that no compensation has been paid till now. Thus, he prays that the notifications be quashed.

2. The respondents contest this position. It has been pointed out that the petitioner had initially filed CWP No. 1002 of 1986 to challenge the notifications impugned herein. This writ petition was decided vide judgment dated May 8, 1992. The petitioner was relegated to the remedy of a civil suit. He had filed a civil suit in the year 1992 which was decided on March 26, 1997. While the matter was under consideration, the petitioner has approached this court through the present writ petition.

3. Mr. R.K. Jain, counsel for the petitioner contends that both the notifications are vitiated as no compensation has been paid to the petitioner till now. Mr. D.P. Singh, DAG, Haryana and Mr. O.P. Sharma, learned Counsel appearing for the respondents contest this claim. It has been submitted that the parties had been litigating since the year 1986. After the decision in 1997 by the Civil Court, the

matter was under examination. The land had to be demarcated and thereafter, the compensation had to be paid only in respect of the area which was to be acquired. This demarcation was actually completed on August 10, 2000. A copy of the report has been produced as Annexure R1/1 with the written statement.

4 It is undoubtedly correct that under the provisions of ` 11-A, the award has to be given within two years of the declaration u/s 6. Still further, Section 31 requires the Land Acquisition Collector to pay the compensation in accordance with the award unless any of the contingencies as mentioned in Clause (2) arise. In that event, the deposit has to be made in the court to which a reference u/s 18 would be submitted. The obvious intention of the Legislature is to ensure that the land owner does not have to wait indefinitely or to run after the authority for the payment of money.

5. In the present case, it is undoubtedly correct that the deposit has not been made. However, an explanation has been given. It has been pointed out that the petitioner had himself approached the Court in the year 1986. Vide order dated April 30, 1986, a photo copy of which has been produced by the counsel for the petitioner, a Division Bench of this Court had restrained the respondents from dispossessing the petitioner. It is not disputed that this interim order had continued till the disposal of the writ petition. Still further, while the matter was pending before the Civil Court, the counsel are agreed that an interim order regarding stay of dispossession was in force. Subsequently, this writ petition was filed. Interim direction for status quo regarding possession was again given by the Bench. It is, thus, clear that the respondents were precluded from taking the possession of the land. It is the petitioner's own case that he has continued in possession throughout.

6. In view of the above facts, it is clear that despite the giving of the award, the respondents were not in a position to take possession. Should the notifications be still quashed on account of the fact that the amount of compensation as assessed by the Collector was not paid ?

7. Mr. Jain submits that the civil suit had been decided in March, 1997. Thereafter, the respondents had a period of almost 20 months to pay and take the possession. It is, however, not clear as to when the decree of the Civil Court was produced by the petitioner before the respondents. Still further, it is the petitioner's own case that he was threatened with dispossession and, thus, he was approaching the Court in November, 1998. On behalf of the respondents, it has been pointed out that after the decision of the case, the demarcation was done. A copy of the report dated August 10, 2000 has been produced as Annexure R1/1 with the written statement. A perusal thereof shows that constructed portion and the vacant area involved in different Khasra Nos. had to be identified. Otherwise, the respondents would have been accused of having acted in violation of the decree passed by the Civil Court. Knowing the manner in which the State functions and keeping in view the long litigation between the parties, we are unable to hold that there was any culpable delay in the

circumstances of the present case.

8. In addition to the above, it has also been pointed out by the counsel for the respondents that the land is basically required for the construction of a road. A part of the construction work is already complete. It is on account of the stay that the possession of the petitioner's land could not be taken. As such, the work has remained held up. The respondents had spent considerable amount of money on the construction of the road. However, it could not be utilised. Still further, the petitioner's interest is duly protected as he would be given the payment alongwith interest despite the fact that the respondents have not been able to utilise the land and their investment has yielded on benefit. Consequently, we are not satisfied that it is a fit case where the acquisition should be quashed merely because of the delay in deposit of the compensation money in Court.

9. Mr. Jain submits that the respondents may take the land which is needed for the road and release the remaining land. Mr. D.P. Singh states that planned development shall not be possible if such a course is adopted. He, however, submits that the petitioner, if so advised, can file a representation to the Chief Administrator, HUDA who would consider and decide the matter. The petitioner may, if so advised, do so.

10. No other point has been raised.

11. In view of the above, we dispose of the writ petition with the following directions :

(a) the respondents shall release the area as directed by the Civil Court.

(b) the petitioner could be paid compensation alongwith interest upto date within one month from the date of receipt of a certified copy of this order;

(c) the representation, if any, submitted by the petitioner shall be considered and decided by the ap- propriate authority.

12. The needful shall be done expeditiously. No costs.

13. Petition disposed of