
(1991) 05 P&H CK 0070
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3244 of 1990

Norang

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 06-05-1991

Acts Referred:

Citation : (1991) 2 CurLJ 307 : (1992) 2 LJR 508 : (1992) PLJ 409 : (1992) 1 RRR 419

Hon'ble Judges : G.C.Garg, J

Advocate : Arun Jain, Advocate., Advocates for appearing Parties

Judgement

G.C. Garg, J.—This order will dispose of Civil Revision No. 3161 of 1990 and 3244 of 1990 as these have been filed against identical order of the Sub Divisional Magistrate cum Land Acquisition Collector, Hissar.

2. The facts giving rise to these revision petition are that notifications dated 21st February, 1988 were issued by the State of Haryana under sections 4 and 6 of the Land Acquisition Act. By these notifications, some land, including the land of the petitioners was sought to be acquired for the purpose of construction of Maharaj Aggarsain Medical College at Agroha. The matter was still pending before the Collector for giving an award under section 11 of the Land Acquisition Act. From the order, it appears that the petitioners entered into an agreement dated 18th March, 1989 with the Secretary, Health Department, Haryana, the Acquiring Department. By this agreement, the petitioners are stated to have agreed to receive compensation as under

(1)

Nehri

80,000/ per acre

(2)

Tal

40,000/ per acre

(3)

Tibba

20,000/ per acre

(4)

Gair Mumkin

70,000/ per acre

The Land Acquisition Collector by his award dated 25th March, 1989 awarded compensation at the aforesaid rate in view of the agreement entered into between the parties.

3. The petitioners moved an application under section 18 of the Land Acquisition Act seeking a reference for redetermination of the market value of the acquired land from the Civil Court. In the reference application, it was further the grouse of the claimants/petitioners that their entire land was Nehri whereas they had been paid compensation as Tal. The petitioners claimed that they were entitled to compensation at the market rate and not on the basis of the alleged agreement. The learned Collector vide his order dated 21st August, 1990 under revision dismissed the application on the short ground that the application did not fall under the purview of section 18 of the Land Acquisition Act. This order was passed without issuing any notice to the landowners.

4. It is against this order that the present revision petitions have been filed.

5. Mr. Arun Jain, learned counsel for the petitioners has argued that the order under revision is liable to be set aside in view of the fact that no notice had been issued by the Land Acquisition Collector to his clients before passing the impugned order. He further submitted that under no circumstances, the Collector could go into the merits of the claim made by the petitioners and a reference on that ground also could not be declined. In support of his contention, he has relied upon *Smt. Surinder Kaur v. Land Acquisition Collector*, 1987(1) LLR 446 and *Baldev Singh v. State of Haryana*, 1987(1) LLR 555.

6. The learned counsel appearing for the State of Haryana has not been able to controvert the submission made by the learned counsel for the petitioners. He only submitted that since there was an agreement between the parties, no application under section 18 was competent.

7. After hearing learned counsel for the parties, I find merit in the contention of the learned counsel for the petitioners. It is the allegation of the petitioner that he has been paid compensation by taking his land to be other than Nehri whereas in fact his entire land was Nehri. This matter in my view was required to be determined in one forum or the other. The learned Collector has not gone into this matter at all. Similarly, whether the claimants had really entered into an

agreement with the Acquiring Department regarding the rate of land deserved consideration especially when they had denied having entered into any such agreement. Even otherwise the principles of natural justice require that they should have been heard by the Land Acquisition Collector before dismissing an application under section 18 of the Land Acquisition Act.

8. In view of the aforesaid, I allow this revision petition, set aside the order under revision and direct the Land Acquisition Collector to decide the matter afresh after issuing notice to the claimants and if need be, refer the application under section 18 to the District Judge. There will be no order as to costs.