

(2008) 10 P&H CK 0075
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No.7832 of 2007

Om Parkash Aggarwal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 01-10-2008

Acts Referred:

Citation : (2009) 1 LLR 12 : (2009) 5 RCR(Civil) 207

Hon'ble Judges : Daya Chaudhary, J and Uma Nath Singh, J

Advocate : Mr. Saurabh Mohunta, Advocate. Ms. Ritu Punj, Deputy Advocate General, Haryana., Advocates for appearing Parties

Judgement

Daya Chaudhary, J.—The present writ petition has been filed by the petitioner for quashing of notification dated 2.5.2001 issued under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") and notification dated 30.4.2002 issued under Section 6 of the Act and also the award dated 27.4.2004 being time barred due to noncompliance of Section 11 for making the award super structure over the land.

2. Briefly, the facts of the case are that the State Government issued notification under Section 4 of the Act in the year 1987 for acquisition of the plot. The petitioner filed objections under Section 5A of the Act against the said acquisition on the basis of A Class construction over the plot, which were duly accepted by the respondents and the land was released from acquisition as a residential house was constructed over the said plot. The said acquisition was also challenged by other land owners by way of filing writ petition in this Court, in this Court, which was allowed vide order dated 29.9.1992. Again after a gap of 78 years, a notification was issued under Section 4 of the Act under which the land owned by the petitioner was also proposed to be acquired. The petitioner could not file the objections under the impression that his land has already been released from acquisition and moreover there was no publication or circulation to this effect. The petitioner challenged the action of the respondents by way of filing a Civil Writ Petition No.10618 of 2002, after the issuance of notification

under Section 6 of the Act, which was dismissed vide order dated 15.4.2004 on the ground that objections under Section 5A of the Act were not filed. Against the order dated 15.4.2004, an SLP filed before the Hon'ble Supreme Court was also dismissed.

3. Mr. Saurabh Mohunta, learned counsel for petitioner has argued that the present writ petition has been filed on the ground that the respondents had failed to comply with the mandatory provisions of law and had failed to make the supplementary award qua the super structure building raised over the land in dispute. It has also been argued by Mr. Saurabh Mohunta that the award of the super structure is to be made within the stipulated period of two years but in the present case the same has not been done because the matter remained under litigation from 12.7.2002 to 15.4.2004 and the period for supplementary award had already been expired,

4. Written statement has been filed on behalf of respondents No.1 to 3, which is on record.

5. Ms. Ritu Punj, learned Deputy Advocate General, Haryana has argued that the petitioner did not file objections under Section 5A of the Act and the persons who had filed objections were duly heard. Ms. Punj also argued that only after receiving the report from the Government, declaration under Section 6 was issued. Ms. Punj also submitted that the award was passed on 20.4.2004 and the present writ petition has been filed after gap more than three years from the pronouncement of the award and the same is liable to be dismissed on the ground of delay and laches. Ms. Punj has also relied upon a judgment of this Court in Radhey Lal Gupta Vs. State of Haryana, 1998(4) RCR (Civil) 295, to contend that the petitioner can file an application under Section 18 of the Act and his claim for super structure can be decided therein.

6. We have heard the arguments of learned for parties and perused the record.

7. In view the above facts, counsel for the petitioner prays that he may be permitted to withdraw the present writ petition with a liberty to file an application under Section 18 of the Act.

Dismissed as withdrawn.

8. However, the petitioner may file an application under Section 18 of the Act before the competent authority within a period of two weeks from the date of receiving of a copy of this order and the same would be decided by the authorities within a period of four weeks thereafter in accordance with law.