(2000) 08 P&H CK 0046

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 5213 of 1999

Om Parkash APPELLANT

Vs

State of Haryana and another RESPONDENT

Date of Decision : 16-08-2000

Acts Referred:

Citation : (2000) 4 RCR(Civil) 603

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

Bench : Division Bench

Advocate : Pritam Saini, for the Appellant; D.P. Singh, D.A.G., Haryana, for Respondent Nos. 1 and 2. and Mr. Shailendra Jain, for the Respondent No. 3, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The Petitioner is running a small barber shop in the revenue estate of village Bir Pipli. The land is measuring 15 square yards. On this, the Petitioner has raised a small structure. This land alongwith an area measuring about 12-1/2 acres has been acquired by the Government for the construction of a Pump Station by the Indian Oil Corporation. The notifications u/s 4 were issued on 19th February, 1998 and 21st July, 1998. There was a corrigendum issued on 6th November, 1998. The notifications u/s 6 were issued on 30th December, 1998 and 13th January, 1998. The Petitioner complains that the notifications having not been issued in conformity with law, the action of the Government in proceeding to acquire his land is vitiated.

2. The claim made on behalf of the Petitioner has been controverted by the Respondents. A detailed written statement has been filed on behalf of Respondent Nos. 1 and 2. It has been inter alia pointed out that the award has already been announced on 5th May, 1999 and that construction is in progress at the site.

3. The Indian Oil Corporation had filed a Civil Miscellaneous Application No.

11748 of 1999 for being impleaded as a party. Counsel for the parties are agreed that this application be allowed. A separate written statement has already been filed on behalf of the Indian Oil Corporation by the Deputy General Manager (C), Pipeline Division of the Corporation. It has been inter alia pointed out that the Corporation is executing a project at an estimated cost of Rs. 37 crores. The purpose is to provide a pipeline to Saharanpur from the Panipat-Ambala section of the existing Mathura-Jalandhar pipeline for transportation of petroleum products.

4. The Respondents have also pointed out that the Petitioner had filed objections u/s 5-A. The Petitioner was heard on 22nd April, 1998 and that keeping in view the situation at the spot, it is not possible to exclude his land from acquisition.

5. Counsel for the parties have been heard.

6. Shri Pritam Saini, learned Counsel for the Petitioner contends that the mandatory provisions of Sections 4 and 5-A having not been complied with in as much as due publicity was not given. Thus, the action of the Government in proceeding to acquire the land is vitiated. The claim made on behalf of the Petitioner has been controverted by the counsel for the Respondents.

7. Admittedly, the total land owned by the Petitioner is only 15 square yards. There is a small structure on this land. According to the award, the Petitioner was entitled to an amount of Rs. 2000/- on account of the cost of land and Rs. 15,400/- on account of the cost of the structure. The compensation has been duly assessed by the Land Acquisition Collector. The Petitioner has the remedy u/s 18. It is also the admitted position that at site, the construction work is going on. Considerable construction has already been raised. It is in the background of this factual position that the Petitioner''s grievance has to be examined.

8. It is undoubtedly correct that the provisions of the Act place a mandatory duty on the authority to give due publicity to the acquisition proceedings. The obvious purpose is to enable the concerned land owner to raise his objections so that his view point is considered before a decision to acquire or to exempt the land in dispute is taken. What is the position in the present case?

9. On the Petitioner''s own showing, he had filed objections u/s 5-A on 18th March, 1998. In pursuance to these objections, he was actually heard on 22nd April, 1998. Thus, the Petitioner cannot have the complaint that he was not made aware of the Government''s intention to acquire the land or that he was unable to raise his objections. In this situation, it cannot be said that any prejudice had been caused to the Petitioner. That being the position, the claim that the notification should be quashed for lack of publicity cannot be sustained.

10. Shri Saini contends that the substance of the notification was not published at the convenient places in the village.

11. Even this objection is wholly untenable. Firstly, the Respondents have disputed the Petitioner''s averment. Secondly, the Petitioner has in fact raised all

the objections. Thus, the grievance is totally baseless.

12. Faced with this situation, Shri Saini has contended that according to the objections submitted by the Petitioner, he had purchased the land in the year 1986 for a sum of Rs. 12,400/-. Thus, the compensation as assessed is wholly inadequate.

13. So far as this aspect is concerned, it is the admitted position that the Petitioner had sought a reference u/s 18. The matter shall be examined by the competent authority. This Court does not have to determine the quantum of compensation in these proceedings at this stage. In any event, the Petitioner shall be entitled to make his claim with regard to the quantum of compensation in accordance with law.

14. No other point has been raised.

15. In view of the above, we find no merit in this writ petition. It is, consequently, dismissed. No costs.

Sd/- K.S. Garewal, J.