
(1992) 07 P&H CK 0070
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 453 of 1987

Parduman Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 06-07-1992

Acts Referred:

Citation : (1992) PLJ 470 : (1993) 1 RRR 311

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

Advocate : P.K. Kukreja, Advocates., Atul Mahajan, D.S. Bali, Senior Advocate, Advocates for appearing Parties

Judgement

G.C. Garg, J.

1. The Amritsar Improvement Trust framed a development scheme known as the Truck Stand Development Scheme, under Section 24 read with Section 28 of the Punjab Town Improvement Act, 1922 (for short the Act) proposing to acquire about 135 acres of land. Notice under Section 36 of the Act was published on May 11, 1974. The scheme was sanctioned by the State Government under Section 41 of the Act and was notified under Section 42 of the Act of the Punjab Government Gazette dated May 27, 1977. Notification under Section 42 of the Act has the same effect as a notification under Section 6 of the Land Acquisition Act. Award in respect of the land covered by the scheme was announced on August 3, 1978 including the land underneath the superstructures. Compensation for the superstructures was, however, not announced as evaluation thereof had not been received by the Land Acquisition Collector. Copy of the award dated August 3, 1978 is Annexure P1. A supplementary award dated October 30, 1986, determining compensation for the superstructures was made. This award is Annexure P2 to the writ petition. It was made part and parcel of the original award dated August 3, 1978.

2. It has been alleged that meagre compensation has been granted by the supplementary award and the petitioners have not received it, though notices under Section 12(2) of the Land Acquisition Act were issued requiring them to

receive the compensation as assessed by the supplementary award.

3. The present writ petition has been filed challenging acquisition proceedings on two grounds, namely, (i) the supplementary award has been made beyond a period of two years of coming into force of the provisions of Section 11A of the Land Acquisition Act, as inserted by Central Act 68 of 1984 and thereby the entire acquisition proceedings would lapse, and (ii) two awards, one fixing the value of the land and second fixing the value of superstructures, could not be made.

4. In the written statement filed on behalf of the respondents, the possession of petitioners 1 to 7 over the constructed portion is not disputed. It is, however, stated in para 9 thereof, that there did not exist any superstructure over the land of the petitioner No. 8 and the said petitioner on receipt of compensation in the year 1981, had delivered the possession of the land to the Trust. Regarding petitioner No. 9, it is stated that he is not the owner of any land comprised in the scheme. Petitioners 1 to 7 who are coowners, are having their construction over an area of 9 Marlas of land in Khasra No. 222min and the second award relates to the superstructures standing on this area of the petitioners. It is averred that the Trust had already spent 1.25 crores of rupees in carrying out the scheme after taking possession of the land long back, except the area in possession of the petitioners 1 to 7.

5. Learned counsel for the petitioners submitted that the award, as envisaged by Section 11A of the Land Acquisition Act had not been made within two years from the date of publication of declaration and, therefore, the entire acquisition proceedings would lapse. Section 11A provides that the Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of land shall lapse. Proviso to Section 11A provides 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. Section 11A was brought on the statute book with effect from September 24, 1984 by Central Act 68 of 1984. In the present case, notification under Section 42 of the Act was published on May 27, 1977 and award thus, could be made on or before September 24, 1986. Admittedly, the supplementary award in this case had been made on October 30, 1986 though relating to superstructures only.

6. On the above premises, the stand of the learned counsel for the petitioners is that the entire acquisition proceedings would lapse and in any case, in respect of the constructed portion. It is not disputed that compensation in respect of land underneath the building and other land had been assessed and paid long back in terms of award dated August 3, 1978. The possession of the land had also been taken.

7. Award in respect of the land was given by the Land Acquisition Collector on

August 3, 1978. It has attained finality. Compensation for the land in terms of the award was also disbursed and accepted by the landowners. The award for the land was thus complete. It is, thus, too late in the day for the petitioners to say that the entire acquisition proceedings would lapse as the award was not made within a period of two years of the enforcement of Central Act 68 of 1984 in respect of the superstructures standing on a very small portion of the acquired land. The first award was made on August 3, 1978 and the amount of compensation disbursed. The present writ has been filed after a lapse of about ten years. The challenge of the petitioners to the entire acquisition thus, in my view, cannot be sustained especially when petitioners were not the owners of the entire land under acquisition. Compensation in respect of the land underneath the superstructures had also been assessed by the earlier award. The same was paid and accepted including the petitioners. Petitioners Nos. 1 to 7 however, continued to be in possession of 9 Marlas of land over which superstructures existed as award in respect of the superstructures had not been made.

8. Regarding second contention, it may be noticed, that the land and the building standing thereon constitute one unit. The value of the entire unit is required to be determined with all its advantages and potentialities in terms of Section 23 of the Land Acquisition Act. A necessary consequence thereof would be that only one award has to be rendered for the unit. This matter happened to be considered by a Division Bench of this Court in *Sharan Pal Singh and others v. State of Punjab and others*, AIR 1991 Pb. & Hr. 98 : 1991(1) RRR 225 wherein it was observed as under :

"In the light of the authoritative pronouncement, there is no escape from the conclusion that the land, buildings standing thereon and the standing crops and trees on the land constitute one unit and the value of the entire unit has to be determined with all its advantages and potentialities. Necessary consequence will be that only one award has to be rendered for the unit.

Section 11A of the Act makes it mandatory for the Land Acquisition Collector to make an award under Section 11 *ibid* within a period of two years from the date of publication of the declaration under Section 6 of the Act, and if no award is made within that period, the entire proceedings for the acquisition of land shall lapse. In the instant case, notification under Section 4 of the Act was published in the Punjab Government Gazette dated June 1, 1982, followed by a notification under Section 6 dated August 17, 1983. The Land Acquisition Collector made the award on March 25, 1985, relating to the land and not for the superstructures and trees standing thereon. The award rendered by the Land Acquisition Collector was not the one envisaged under Section 11 of the Act. The same envisages the award for the unit, viz. the land, buildings and superstructures and standing crops and trees thereon. The acquisition proceedings would lapse insofar as the award relates to that portion of the acquired land on which the superstructures and trees were standing on the date the award had been made."

9. As noticed above, the compensation under the award dated August 3, 1976

had been disbursed to the landowners and the second award only related to the superstructures. Following the judgment of the Division Bench in Sharan Pal Singh and others (supra), irresistible conclusion is that the acquisition proceedings, insofar as these relate to that portion of the acquired land over which superstructures were standing on the date the earlier award was made, would lapse, qua the petitioners only. No other factor or circumstance was brought to the notice of the Court by the learned counsel for the respondents to decline the relief to the petitioners to the extent indicated above.

10. For the reasons stated above, the writ petition partially succeeds qua petitioners 1 to 7 only and is dismissed qua petitioners 8 and 9. The acquisition proceedings would lapse with regard to 9 marlas of acquired land comprised in Khasra No. 222 min on which the superstructures of petitioners 1 to 7 were standing on the date of acquisition and for which award was not rendered in terms of Section 11A of the Land Acquisition Act, 1894, as amended by Central Act 68 of 1984.

11. Since compensation of land underneath the superstructures had been assessed and paid to petitioners 1 to 7 in terms of the award dated August 3, 1978, the same shall be returned by them within a period of three months from today, including solatium, interest and other statutory benefits, along with further simple interest at the rate of 15% per annum from the date of receipt thereof by them till the date of payment to the Trust. The petitioners have been asked to pay further interest on the amount of compensation received by them as they have enjoyed the compensation without delivering possession of 9 Marlas of land over which their superstructures existed and qua which the acquisition proceedings have been quashed. If petitioners 1 to 7 fail to repay the amount, as indicated above, within the period specified, the writ petition qua them also shall be deemed to have been dismissed and the Trust in that eventuality will be entitled to take possession of the property in question, on payment of compensation as determined by supplementary award.