
(1988) 11 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 99 of 1988

Parkash Wati and others

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 17-11-1988

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1988) 11 P&H CK 0002

Hon'ble Judges : Amrit Lal Bahri, J

Bench : Single Bench

Advocate : G.C. Garg and Mr. Anil Rathi, for the Appellant; H.S. Brar for U.O.I and P.S. Teji, for the Respondent

Final Decision : Allowed

Judgement

A.L. Bahri, J.—This appeal is directed against the judgment of Additional District Judge, Bhatinda dated November 5, 1982 dismissing an application filed by Parkash Wati widow, Naresh Kumar and Shashi Kumar, sons of Hakam Singh, for restoration of Land Reference No. 609 dated October 28, 1978 which was dismissed in default by District Judge on February 15, 1979.

2. In 1974, land was acquired for Cantonment at Bhatinda. After the Collector announced the award, several landowners made references u/s 18 of the Land Acquisition Act. Hakam Singh also owned some land and had put in an application u/s 18 of the Land Acquisition Act. He died on February 11, 1976. At that time his application was still pending before the Collector. It was on October 28, 1978 that his application was received by the District Judge which was registered as Land Acquisition Case No. 609 of 1978. On February 15, 1979, the said reference of Hakam Singh was dismissed for his non-appearance. Subsequently, the land references of other claimants were decided by the District Judge and now it is stated that the matter has been settled by the Supreme Court. The present Appellants oncoming to know that the compensation for the acquired land had been increased started making inquiries about the reference

application moved by Hakam Singh They made inquiries from the office of the Collector as well as from the District Judge and ultimately on November 17, 1981 they came to know that the District Judge had dismissed the application of Hakam Singh in default. They moved an application for restoration of the same on November 18, 1981. This application has now been dismissed by the Additional District Judge, Bhatinda on November 5, 1982 as barred by time

3. It is settled by judicial pronouncements of this Court that a land reference moved u/s 18 of the land Acquisition Act has to be decided on merits and cannot be dismissed in default. Such an order dismissing in default the land reference would be without jurisdiction. Furthermore, limitation for setting aside order dismissing in default would start from the date of knowledge and in the present case, such a knowledge was acquired only on November 17, 1981 when inquiries were made from the office of the District Judge that earlier the reference was dismissed in default. Reference may be made to a decision of this Court in Smt. Kamla Devi v. State of holding as above. This decision was subsequently follow-in Gurbax Singh and Ors. v. State of Punjab

4. As already noticed above, Hakam Singh died on February 11, 1976 At that time, application moved by him u/s 18 of the Land Acquisition Act was still pending before the Land Acquisition collector Provisions of Order XXII of the CPC would not be attracted to the proceedings which were pending before the Land Acquisition Collector. Thereafter, the said application was referred to the District Judge for determination of market value of the acquired land. Obviously, Hakam Singh being dead was not served and the said application was ultimately dismissed for non appearance of Hakam Singh on February 15, 1979 The present Appellants had no knowledge either of application u/s 18 of the Land Acquisition Act having been pending before the Land Acquisition Collector or before the District Judge. It was thereafter that on coming to know that compensation case of the acquired land had been settled by the High Court and amount of compensation was enhanced that they looked into the matter and ultimately came to know about the dismissal of the reference by the District Judge. This was on November 17, 1981. It is from the said date that limitation for setting aside the order dismissing the application u/s 18 of the Land Acquisition Act would start and not from the order of the dismissal of the said application. In the circumstances stated above, the application for setting aside the order dismissing the application filed u/s 18 of the Land Acquisition Act was within time. As already noticed above, such an order was without jurisdiction as it was the duty of the District Judge to decide the reference on merits.

5. For the reasons recorded above, this appeal is allowed with costs. The order of the Additional District Judge is set aside. Application made u/s 18 of the Land Acquisition Act by the Appellants is allowed with the result that the Land Acquisition Reference No. 609 of 1975 (Hakam Singh v. Union of India) stands restored. The parties through their counsel are directed to appear in the Court of Additional District Judge, Bhatinda on December 19, 1988.