
(2007) 09 P&H CK 0021
In the Punjab And Haryana At Chandigarh

Parshotam Dass and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 07-09-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 30

Citation : (2008) 2 PLR 117 : (2009) 2 SLR 225

Hon'ble Judges : Vijender Jain, C.J;Mahesh Grover, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Vijender Jain, C.J.—In this appeal filed under Clause X of the Letters Patent, the appellants have assailed judgment dated 6.6.1991 of the learned Single Judge whereby R.F.A. No. 1399 of 1986 preferred by respondent Nos. 3 to 6 has been allowed.

2. The case of the appellants is that they were tenants on the land which was comprised in Khasra Nos. 9094 and 9095 measuring 8 kanals and 8 marlas situated in revenue estate of Karnal and which became subject-matter of acquisition by the Government of Haryana. Respondent Nos. 3 to 6, who were owners of the land in question, filed a petition u/s 18 of the Land Acquisition Act, 1894 (for short, "the Act") against the award of the Land Acquisition Collector, whereas the appellants filed an application u/s 30 of the Act for apportionment of the compensation stating that they, being the tenants, were entitled to 1/3rd of the compensation to be assessed by the Reference Court.

3. The application of the appellants was accepted by the Reference Court and it was held that they, being tenants, were entitled to 1/3rd of the amount of compensation qua the land in question. For recording this finding, khasra girdwaris, Exhibits P15 and P26 to P32 indicating the possession of the appellants, were relied upon.

4. In appeal, the learned Single Judge held that the appellants were not entitled

to any compensation as they had failed to establish their possession as tenants on the land in question. While dealing with the entries in khasra girdwaris, which were relied upon by the Reference Court, the learned Single Judge came to the conclusion that no entry existed in the revenue record in favour of the predecessor-in-interest of the appellants, who died in the year 1970 and thereafter, concluded that in the absence of any record to establish the tenancy and possession of the appellants over the land in question, they were not entitled to any share in the compensation.

5. Learned Counsel for the appellants contended that the findings recorded by the Single Judge are erroneous and deserve to be set aside in view of the overwhelming evidence on record. In Support of his contention, he relied upon Smt. Asha Devi Vs. Dukhi Sao and Another, and Col. Sir Harinder Singh Brar Bans Bahadur v. State of Punjab 1988 RLR 132.

6. The learned Counsel for respondent Nos. 3 to 6, on the other hand, argued that these findings of fact cannot be gone into by the Letters Patent Bench. In support of his argument, he placed reliance on a Division Bench judgment of this Court in Gian Chand and Others Vs. The Financial Commissioner and Others, .

7. Having thoughtfully considered the rival submissions and having gone through the record, we are of the opinion that there is no bar for the Letters Patent Bench to go into the findings of fact also if it is desirable so to do in the interest of justice and for proper appreciation of the controversy in case the situation so demands.

8. However, we find that the appellants have failed to establish by way of any cogent record the factum of their being in possession as tenants over the land in question after the death of their predecessor in the year 1970. No evidence, worth the name, was produced to prove that some tenancy qua the said land was created in favour of the appellants. Even the entries which existed in the name of Hari Ram, the predecessor-in-interest of the appellants, continued as such (i.e., in the name of Hari Ram) after 1970 when he is said to have expired. This factor alone indicates the frivolous nature of the entries in the khasra girdawaris which were relied upon by the Reference Court in order to accept their claim.

Thus, we do not find any merit in the appeal, which is hereby dismissed.