
(2011) 03 P&H CK 0049
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 6120 of 2002

Parveen Malhotra

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 12(2), 18, 18(2), 29

Citation : (2011) 163 PLR 464

Hon'ble Judges : Rajive Bhalla, J

Bench : Single Bench

Judgement

Rajive Bhalla, J.—The petitioner prays for quashing the order, dated 19.09.2002, passed by the Additional District Judge, Faridabad, declining to answer a reference forwarded by the Land Acquisition Collector.

2. Counsel for the petitioner submits that the order, passed by the Additional District Judge, Faridabad, returning the reference to the Collector, is a nullity as the Land Acquisition Act, 1894 (hereinafter referred to as the "Act"), does not prohibit a person, who has not raised an objection before the Collector, from filing a petition u/s 30 of the Act. A question of title may be raised by filing an application u/s 30 of the Act before or after the award. Reliance for this argument is placed upon judgments of the Hon'ble Supreme Court in Dr. G.H. Grant Vs. State of Bihar, and Sharda Devi Vs. State of Bihar and Another, . It is further submitted that the reference court committed an error in returning the reference by holding that as the petitioner did not raise any objection before the Collector, he has no right to file a reference u/s 30 of the Act.

3. Counsel for the State of Haryana submits that as the petitioner did not raise any objection before the Collector, the reference court rightly returned the reference. It is further submitted that as the petitioner did not appear before the Collector to raise a plea that he has a right in the acquired land, the Collector had no jurisdiction to make a reference to the Additional District Judge.

4. No-one has put in appearance on behalf of respondent No. 2.

5. The State of Haryana acquired the land in dispute. The Collector paid compensation for the land in dispute to respondent No. 2 who thereafter, filed a petition u/s 18 of the Act, praying for enhancement of compensation. The petitioner filed an application, before the Collector, praying that compensation should not be paid to respondent No. 2 as the land was leased to him for 99 years. The Collector forwarded the reference, under sections 18 and 30, to the Additional District Judge, Faridabad. The Additional District Judge, Faridabad returned the reference, by holding that as the petitioner did not raise any objection at the time of the award by the Land Acquisition Collector, the reference is not maintainable.

6. A due consideration of arguments addressed by counsel for the petitioner, the provisions of the Act and the judgments of the Hon''ble Supreme Court in Dr. G.H. Grant's case (supra) and in Sharda Devi's case (supra), clearly establish that tile Act does not prohibit a person who has not appeared or raised an objection before the Collector from raising a dispute and seeking a reference u/s 30 of the Act. The Full Bench judgment of the Lahore High Court in Abdul Sattar and another v. Mt. Hamida Bibi 1950 Lahore 229 case (supra) relied upon by the reference court is no longer good law in view of the authoritatively pronouncements by the Hon''ble Supreme Court in Dr. G.H. Grant's case (supra) and Sharda Devi's case (supra) wherein after considering the nature of objections raised to apportionment, the Hon''ble Supreme Court held that the Act does not provide a period of limitation for raising objections as to apportionment of compensation and does not prohibit a person who has not raised an objection before the Collector, from filing a reference u/s 30 of the Act. A relevant extract from the judgment in Dr. G.H. Grant's case (supra) reads as follows:

But a person who has not appeared in the acquisition proceeding before the Collector, if he is not served with notice of the filing, may raise a dispute relating to apportionment or to the person to whom it is payable, and apply to the Court for a reference under S. 30, for the determination of his right to compensation which may have existed before the award, or which may have devolved upon him since the award. Under S. 18 an application made to the Collector has to be made within the period prescribed by Cl. (b) of Sub-section (2) of S. 18. But no such period is prescribed under S. 30.

7. In Sharda Devi's case (supra), the Hon''ble Supreme Court, examined the import of the expression "persons interested" used in the Act and after a pointed reference to the differences between Section 18 and Section 30 of the Act, set out in detail conditions precedent for making a reference under these provisions, the nature of powers exercised by the Collector and the limitation for making a reference u/s 30 of the Act The Hon''ble Supreme Court has authoritatively held that adjudication u/s 30 of the Act cannot be confined to only those persons who were present and raised objections before the Collector. A relevant extract from the judgment in Sharda Devi's case (supra) reads as follows:

The finality to the award spoken of by Section 29 is as between the "persons interested" inter se and is confined to the issue as to the correctness of the Apportionment. Section 30 is not confined in its operation only to "persons interested" if they were neither present nor represented in the proceedings before the Collector, nor were served with notice u/s 12(2) of the Act or when they claim on the basis of a title coming into existence post-award. The definition of "persons interested" speaks of "an interest in compensation to be made". An interest coming into existence post-award gives rise to a claim in compensation which has already been determined. Such a person can also have recourse to Section 30.

In any case, the dispute for which Section 30 can be invoked shall remain confined only (i) as to the apportionment of the amount of compensation or any part thereof, or (ii) as to the persons to which the amount of compensation (already determined) or any part thereof is payable.

8. It is therefore, beyond doubt that a person aggrieved by payment of compensation by the Collector may raise an objection before, during or after the award. The objection so raised has to be forwarded to the reference court for adjudication. The Act does not provide any particular stage for raising an objection and nor does it confine such an objection to only such persons as have raised objections before the Collector. The Act does not provide any period of limitation for raising objections as to apportionment of the compensation and entitles a person aggrieved to raise a plea of apportionment whether his right existed before or devolved after the award. A Collector while pronouncing an award u/s 11 of the Act merely records his prima facie opinion with respect to the rights of parties before him. The award, passed by a Collector, is a mere reflection of his opinion as to the rights of parties before him and does not have an adverse bearing upon the rights of a party who may not have appeared before him. In this view of the matter, the Additional District Judge, Faridabad, had no jurisdiction to return the reference to the Collector. The revision is therefore, allowed, the impugned order is set aside and the reference filed by the petitioner u/s 30 of the Act, is restored to the court of the Additional District Judge, Faridabad, for adjudication in accordance with law.

Parties are directed to appear before the Additional District Judge, Faridabad, on 28.04.2011.