

(1993) 09 P&H CK 0033
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5405 of 1986

Piara Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 14-09-1993

Acts Referred:

Land Acquisition Act, 1894 — Section 6

Citation : (1994) 108 PLR 668

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Parmod Mittal and I.S. Saini, for the Appellant; S.S. Khetarpal, D.A.G, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jhanji, J.—This will dispose of Civil Writ Petition No. 5405 of 1986 as well as No. 3943 of 1986 as common question of law is involved therein.

2. The facts are taken from Civil Writ Petition No. 5405 of 1986.

3. According to the petitioners, the State of Haryana issued notification u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act) On 11.3.1981 expressing its intention to acquire land for the purpose of development and utilisation of land for residential and commercial purposes for Sectors 5 and 7 in the area of village Devidaspura, Tehsil Thanesar District Kurukshetra. This was followed by another notification dated 11.12.1983 u/s 6 of the Act. In the writ petition, notification u/s 4 of the Act is challenged on the grounds:-

(i) that the State of Haryana cannot be allowed to freeze the price of the locality by keeping the notification u/s 4 of the Act alive by issuing notification u/s 6 of the Act just before the expiry of prescribed period of three years.

(ii) that no Award was pronounced within two years of the date of commencement of the Act No. 68 of 1984. Therefore, the notification has

elapsed.

4. In reply, the State of Haryana has averred that notification u/s 6 of the Act was issued within the stipulated period of three years and that the allegation of the petitioners that the State took no steps for taking action for acquisition, of land is wrong and denied. On merits, the other allegations made in the petition have also been denied.

5. Mr. Parmod Mittal, Advocate, learned counsel for the petitioner contended that this Court in Civil Writ Petition No. 2992 of 1988 decided on 14.10.1988 as reported in *Om Parkash v. State of Haryana* (1984) 86 P.L.R. 115 quashed the notification now impugned in these civil writ petitions on the ground that there was no convincing explanation of the delay which took place in issuing notification u/s 6 of the Act. He also contended that Shri J.S. Khanna, Advocate, counsel for the petitioners before the Collector, had inspected the record on 30.9.1986 and on inspection, he found that on the file there was no Award or copy thereof. In support of this, he made reference to affidavit, P-34 annexed to the petition.

6. On the other hand, learned counsel for the State submitted that the principle laid down in *Om Parkash's* case (Supra) has not been approved by the Supreme Court and, therefore, the writ petitions are liable to be dismissed. With regard to the pronouncement of Award, he stated that the Award was made 12.9.1986 within the prescribed period of limitation and in accordance with the provisions of the Act.

7. Having heard the learned counsel for the parties at length, I am of the view that there is no merit in these civil writ petitions. It is not denied before me that the notification u/s 6 of the Act was issued within a period of three years. The principle laid down in *Om Parkash's* case (Supra) is nothing but what was laid down in *Radhey Sham's* case, reported in 1982 P.L.J. 349 and, therefore, petitioners cannot derive any help from decision rendered in *Om Parkash's* case (Supra) because *Radhey Sham's* case has not been approved by the Supreme Court in a large number of cases.

8. Now, coming to the second argument, state in its written statement, has made a categorical averments that the Award was pronounced on 12.9.1986. According to the State, Shri J.S. Khanna, Advocate counsel for the petitioner before the Collector, made an application for supply of copy of the Award. In the application, he had not stated that the copy of the Award was not available on the file. This averment has remained unchallenged. Respondents have not filed any replication or rejoinder to this submission of the State. In this view of the matter, I have not alternative but to accept that the proceedings for the acquisition, have not elapsed because the Award was announced on 12.9.1986 i.e. within two years from the date of commencement of the Act No. 68 of 1984. The judgments in *Dr. Angolo Fernandes Vs. Union of India and others*, and *Leath Elies Joseph Solomon Vs. H. C. Stork*, referred to by counsel for the petitioners have no application to

the facts of the present case because in those cases no valid Award was made within the prescribed period of limitation.

9. Consequently, Civil Writ Petitions No. 5405 and No. 3943 of 1986 are dismissed. No costs.