

(1969) 01 SC CK 0039

In the Supreme Court Of India

Case No : Civil Appeal No. 1697 Of 1966

Pratap Narain

APPELLANT

Vs

The Chief Commissioner, Delhi and Others

RESPONDENT

Date of Decision : 21-01-1969

Acts Referred:

Citation : (1969) 3 SCC 631

Hon'ble Judges : S. M. Sikri, J; R. S. Bachawat, J; K. S. Hegde, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

K.S. HEGDE, J.-The short question that arises for decision in this appeal by special leave is whether the High Court was justified in summarily dismissing the writ petition which has given rise to this appeal.

2. The facts of this case may be briefly stated thus: Some of the lands belonging to the appellant in the Village Badarpur were notified under Section 4 of the Land Acquisition Act for acquisition for a public purpose, on August 30, 1954. Section 6 notification was issued on March 12, 1955. The appellant filed his claim for compensation before the Land Acquisition Officer on January 17, 1956. It is said on behalf of the appellant that a preliminary award was made on January 14, 1958 and a supplementary award on April 10, 1958 but no notice of those awards was given to him nor was he present at the time of making awards. He came to know of those awards only on October 30, 1958. On the same day he applied for the certified copy of those awards. After receiving the certified copies he applied under Section 18 of the Land Acquisition Act for referring the question of compensation for the decision of the Land Acquisition Judge and received the compensation awarded under protest. His application was rejected on October 21, 1961 as having been time barred. But that order again was not communicated to him. According to the appellant after waiting for a long time for an order on his application he wrote to the land Acquisition Officer on November 18, 1965 to pass orders on his application under Section 18. In response to that

letter he received a letter from the Land Acquisition Officer on November 27, 1965 asking him to appear before him and to prove that he had submitted an application under Section 18. He accordingly appeared before that officer on November 29, 1965 and produced before him the acknowledgment given to him. For sometime the concerned file was not traced in the office of the Land Acquisition Officer. Thereafter it was traced and it was found that his application had been dismissed on October 21, 1961 as being time barred but no notice of that order had been given to him. He then moved the Land Acquisition Officer to revise his order dismissing his application under Section 18 but that prayer was turned down on March 2, 1966. It is only thereafter he moved the Circuit Bench of the Punjab High Court, at Delhi on March 26, 1966 for setting aside the order of the Land Acquisition Officer and to direct him to act according to Section 18. That application was summarily dismissed on March 29, 1966.

3. The appellant's case is that he had not received any notice of the making of the award and consequently his application under Section 18 was within time. This plea had not been controverted by the respondents in this Court. The records produced by the appellant lend support to that plea. Hence prima facie the appellant's application under Section 18 was within time, see *Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer*¹ and *State of Punjab v. Osisar Jehan Begum*². If the allegations made by the appellant are accepted as correct as we have to do on the basis of the pleadings and material before us then there is no doubt that the Land Acquisition Officer was not justified in refusing to exercise his statutory duty.

4. The order of the High Court dismissing the writ petition is not a speaking order. We do not know for what reasons the High Court rejected the writ petition. The appellant undoubtedly had a strong prima facie case in support of the reliefs prayed for, by him.

5. It is true that the appellant was not prompt in moving the High Court. But he cannot be penalised for proceeding on the basis that the statutory Tribunals would act according to law and the delay in receiving the prescribed notices as being nothing extraordinary, knowing how our administrative machinery works.

6. The respondents have not filed any affidavit in this Court nor have they placed any material before this Court to show that the facts pleaded by the appellant are in any manner incorrect. Therefore at this stage we have to accept those facts.

7. In the result this appeal is allowed and the order of the High Court summarily dismissing the writ petition is set aside and the case is remitted back to the High Court for disposal according to law. The appellant will get his costs of this appeal from the respondents.