
(2000) 10 P&H CK 0046

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14036 of 2000

Prem Singh and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 20-10-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2000) 10 P&H CK 0046

Hon'ble Judges : K.S. Garewal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : M.U.S. Sahni, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—In they year 1997-78, land measuring 11 Kanals and 6 Marias in village Madalpur was acquired by the State Government. On October 10,2000, the Petitioners have approached the Court through the present writ petition. They pray that a writ "in the nature of prohibition be issued restraining the Respondents from taking the law into their own hands and forcibly uprooting the Petitioners from their houses in the Abadi Deh of village Madalpur, Sector 15, Punchkula....."A few facts as relevant for the decision of this case be briefly noticed.

2. On January 21, 1977, the State Government issued a notification u/s 4 of the Land Acquisition Act, 1894. Thereafter a notification u/s 6 of the Act had been issued. Ultimately in the year 1980 an award was given. After a lapse of about 8 years on August 12, 1988, the Petitioners filed a civil suit in the Court of Civil Judge (Senior Division), Punchkula, for the grant of a permanent injunction. On October 2,2000 the Civil Court dismissed the suit. The Petitioners allege that on October 8,2000 the Respondents "resorted to demolishing" despite protest. They further allege that they had submitted an application to the Respondent-authorities for allotment of alternative accommodation. They maintain that in accordance with the Instructions issued by the State Government vide letters

dated September 10, 1987 and March 18, 1992, they are entitled to be allotted plots for the construction of their houses.

3. We have heard Mr. Ujjal Singh Sahni, learned Counsel for the Petitioners. He contends that in accordance with the decision of their Lordships of the Supreme Court in *State of U.P. Vs. Smt. Pista Devi and Others*, and the Instructions issued by the State Government, the Petitioners have a right to be allotted alternative sites before they are dispossessed.

4. Admittedly, the land was acquired in the year 1977, it is also admitted that the award was given in the year 1980. The Petitioners have not allowed the Respondents to utilise the land by virtue of the injunction issued by the Civil Court in the year 1988. The suit, it appears was dragged on for a period of 12 years. Now that the suit has been dismissed, the Petitioners have approached this Court. The effort is to stay on the land despite the fact that the State Government had acquired it about 23 years back. We find no reason to allow the Petitioners to do so.

5. Mr. Sahni contends that in accordance with the Instructions issued by the State Government, the Petitioners have a right to be rehabilitated.

6. We are unable to accept this contention. Firstly, we are of the view that the Instructions issued in September 1987 and March 1992 have no retrospective effect. The instructions, if at all, can have a prospective effect. Secondly, the Petitioners have not disclosed as to how much land belonging to each one of them has been acquired. Mr. Saini states that the Petitioners have their houses on the land. However, the area of even the houses has not been given. In this situation, we find that the Petitioners have no right to claim the allotment of any alternative site before they can be dispossessed.

7. Mr. Sahni refers to the decision of their Lordships of the Supreme Court in *State of U.P. v. Pista Devi* (supra). This was a case where the U.P. State Government had made a provision in the Act. Their Lordships were of the view that the provision embodies a salutary principle. However, there was no mandate that the State Government cannot acquire private property till it makes a scheme for the rehabilitation of the owners. If such a provision was to be mandatorily made the remedy may be worse than the malady. The only right given to the landowners is to a just and fair compensation. It is not the complaint of the Petitioners that the authorities have not made the assessment.

8. Mr. Sahni contends that the action of the Respondents is arbitrary.

9. We find that the complaint is unfounded. The Petitioners have managed to stay on the land for a period of 23 years after the issue of the notification. Their complaint in the circumstances of this case is totally lacking in merit.

10. Mr. Sahni has lastly contended that the action is violative of the provisions of Sections 18 (b) of the Haryana Urban Development Authority Act, 1977. This provision provides for the eviction of the persons occupying the premises of the

Authority. It can be invoked in a case where the person does not pay the rent or sublets the premises or is in unauthorised occupation of any premises. No action has been taken against the Petitioners under this provision. They are being dispossessed from the land, which has been acquired by the State Government under the provisions of the Land Acquisition Act, 1894. After the acquisition, the award had been given . The Respondents had the right to take possession of the land after the award had been given. The provisions of the 1977 Act have not been invoked by the Respondents. These are not at all attracted to the facts and circumstances of the case.

11. No other point has been raised.

12. In view of the above, we find no merit in this petition. It is, consequently, dismissed in limine.

Sd/- K.S. Garewal, J.