
(1985) 11 P&H CK 0012
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3759 of 1982

Pritam Singh and others

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 05-11-1985

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1985) 11 P&H CK 0012

Hon'ble Judges : Gokal Chand Mital, J

Bench : Single Bench

Advocate : M.L. Sarin, for the Appellant; S.S. Shergill, A.A.G., Punjab, for the Respondent

Final Decision : Allowed

Judgement

Gokal Chand Mital, J.—This order will dispose of a bunch of six connected writ petitions Nos. 3759, 3760 and 3761 of 1982 and 3747, 3748 and 3749 of 1982 as common questions arise therein.

2. The State of Punjab vide notification dated 26th July, 1979 published in the Punjab Government Gazette (Extraordinary) dated 23rd August, 1979, issued u/s 4 of the Land Acquisition Act, 1894 (hereinafter called "the Act"), proposed to acquire 452 Kanals 3 Marlas of land for a public purpose i.e. for setting up a new Mandi township at Jandiala Guru, Tehsil and District Amritsar. Thereafter a notification u/s 6 of the Act was published on 27th February, 1980 (Annexure P-2). Notices u/s 9 of the Act were issued to the claimants in May, 1980. The claimants filed their claims within the prescribed time but till 11th August, 1982 when the writ petitions were filed no steps had been taken to finalise the award, to pay compensation or to take possession of the land. The writ petition was filed in this Court to challenge the acquisition as being colourable exercise of power to peg down the prices and reliance was placed on a Full Bench judgment of this Court in Radhey Sham Gupta v. State of Haryana (1982) 84 P,L,R. 743. Notice of motion was issued to the State of Punjab to find out facts and when no

reasonable reply was furnished the writ petitions were admitted.

3. After hearing the learned counsel for the parties and on perusal of the record I am of the view that these writ petitions deserve to be allowed in view of the dictum laid down in Radhey Sham's case (supra) written statement was filed on or before 29th September, 1982 whereas the writ petition was admitted on 22nd October, 1982. The stand taken in para 4 of the written statement is that the claimants u/s 9 were heard but further proceedings could not be completed as the District Collector had been repeatedly requested to give the market rates of land under acquisition and got the necessary data collected from the concerned Revenue Patwaris and got those facts for determination of the market price vide his office letter dated 5th April, 1982 received by the Land Acquisition Collector on 5th April, 1982. Thereafter it is urged that the proceedings were taken in hand for giving the award and in the meantime the claimants filed writ petitions and obtained stay order and consequently the acquisition could not be completed.

4. Initially the writ petition had come up for motion hearing on 27th August, 1982 when the only stay order was passed "stay dispossession till further orders". This very order was allowed to continue till the hearing of the writ petitions. At no stage stay order was granted for staying passing of the award or for offering of compensation to the claimants because it is settled rule that after hearing objections of the claimants u/s 9 of the Act and after considering the relevant matters, the Collector has to give his award as required by Section 11 of the Act. Section 12 of the Act provides for filing of the award in Collector's office, which is considered as final and conclusive as between the Collector and the person interested as and u/s 12 (2) of the Act, the Collector has to give notice of his award to the persons interested who were not present when the award was made. It is only after the award is made u/s 11 of the Act, that the Collector can take possession of the land, which is subject matter of acquisition and on taking possession it vests in the Government free from all encumbrances. Therefore, the pre-requisite to finalise the acquisition is to give award as required u/s 11 of the Act and the stay order, which was granted by this Court was to have become effective only after the award had been given. Therefore, there was no impediment in the way of the State Government or the Land Acquisition Collector in giving the award and in offering the compensation to the claimants. It has not been done even till today i.e. after more than 5 years and 8 months have elapsed since the issuance of Section 6 notification and more than six years have passed after section 4 notification. A reading of Radhey Sham Gupta's case (supra) clearly shows that the same is on all fours applicable to the facts of the present case and it is to be held that the acquisition was a colourable exercise of power with a view to peg down the prices as on 23rd August, 1979 when the State Government did not want to acquire it till this date because the acquisition would be completed only on giving the award and offering compensation to the claimants. This having not been done there is no option but to allow these writ petitions and while doing so, the impugned notifications Annexures P-1 and P-2, published under sections 4 and 6 of the Act, are hereby quashed. The petitioners

would be entitled to the costs of these petitions.