
(1981) 01 P&H CK 0039

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 440 of 1976

Punjab State

APPELLANT

Vs

Chaman Lal

RESPONDENT

Date of Decision : 01-01-1981

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : AIR 1981 P&H 114

Hon'ble Judges : S. Tiwana, J

Bench : Single Bench

Judgement

1. The State Government acquired 177 Bighas of Land Bhatinda for the construction of a marshalling yard of Guru Nanak Thanmal Plant at Bhatinda by the Punjab State Electricity Board. The requisite notification u/s 4 of the Land Acquisition Act (for short, the act) was published on September 21, 1971. The Land Acquisition Collector after hearing the claimants determined the market price of the acquired land at the following rates:

Nehri Rs. 1400/- per bigha

Barani Rs. 800/- per bigha

Chaman Lal one of the claimants (now respondent) was not satisfied with the adequacy of compensation awarded and sought a reference u/s 18 of the Act; as a result thereof the said Court enhanced the rate of compensation to the following extents:-

Nehri Rs. 10,000/- Per acre

Barani Rs. 6,000/- Per acre

2. The State has made a grouse of this enhancement and thus this appeal.

3. At the time of the hearing of the appeal, leaned counsel for the respondents raised a preliminary objection about the tenability of the same on the ground

that though the heading of the appeal reads "Punjab State through the Land Acquisition Collector," yet it is only the Collector who has filed this appeal and it is he alone who has signed or executed the power of attorney in favour of Gian Chand Gupta, Advocate, who actually filed and presented this appeal. Learned counsel asserted that the State Government could only file an appeal through one of its government pleaders, i. e. the Advocate General or any of his Assistants.

4. After hearing the learned counsel for the parties, I do not find any merit in this submission of the learned counsel for the respondent.

5. The expression "Collector" as defined in the Land Acquisition Act includes, besides the Deputy Commissioner, any Officer specially appointed by the appropriate government to perform the functions of a Collector under the Act. For all intents and purposes under the Act he acts as an agent of the Government and offers the compensation awarded by him to a claimant on behalf of the government. He in his capacity as an agent of the government is obviously interested to see that the government is not made to pay more than what he considers to be the fair compensation and in case his award is upset by a Land Acquisition Court on a reference u/s 18 of the Act, he surely is competent to file an appeal against the same in order to watch and protect the interest of the government. This aspect of the matter came up for consideration before a Division Bench of the Madhya Pradesh H. C. in *The Collector, Raigarh v. Chaturbhuj Panda* (AIR 1964 Madh Pra 196) wherein it was held as follows:--

"The Collector can file an appeal against an award of the Court on behalf of the State Government.

It is not necessary to file the appeal formally in the name of the State Government.

The Collector has a right to act for the Government under the specific provisions of the Act. The amounts of compensation and the interest on the amount have to be paid by the State Government; but under the special provisions of the Act it is the Collector who has to perform that duty. If the Collector wants to be relieved of a part of the statutory liability created by the award of the Court, he should be entitled to prefer an appeal against the award. Moreover, the practice of filing appeal in the name of the Collector has been in existence for a long time.

Even if it is assumed that the State Government is the real aggrieved party in whose name appeal should have been filed by the Collector as their agent, the defect in an appeal filed by the Collector in his name, would not be fatal."

As would be clear from the above extract from the judgment, it was a case where the appeal had been filed by the collector himself without impleading the State as a party. Keeping in view the provisions of the various sections of the Act, it was held that the Collector in these matters acts only as an agent of the government and it is his duty not only to make award but he must also watch

and protect the interests of the government in case the said award is upset by the Court. This case was later approved and followed by the same High Court in *The Collector, Seoni Vs. Dadoo Yogendra Nath Singh and Others*, . In a still later case before the Bombay High Court, in *The State of Maharashtra (Public Works Department) Vs. Bapurao Dnyanoba Chiddarwar and Others*, , where a contention had been raised before the Division Bench that it is only the Collector and not the Government who can file the appeal against an award of the Land Acquisition Court, It was held as follows:--

"The Collector when he makes an award, makes an offer on behalf of the Government to the owner of the Property. As a Collector as such he is not a person who had to pay compensation which is paid out of the funds of the Government. The real person who would be interested in Challenging the enhanced compensation made by the Court in a reference u/s 18 is the principal namely, the government, and if the Government agent namely the collector can file an appeal challenging the enhanced compensation by the Court, the principal itself would not be incompetent to file such an appeal. Merely because normally appeals are filed by the Collector functioning as Land Acquisition Officer, it does not mean that appeal filed by the Government would become incompetent."

6. In this case, reliance has been placed on a decision of the Privy Council in *Ezra v. Secretary of State for India* ILR(1905) Cal 605, whereby their Lordships upheld the judgment of the Calcutta High Court wherein the following observation relevant to the point in issue were made:--

"The considerations, to which we have referred, satisfy us that the collector acts in the matter of the enquiry and the valuation of the land only as an agent of the Government and not as a judicial Officer."

After determining the scope and the duty, a Collector under the Act has to perform. This is how their Lordships of the Privy Council concluded the matter;

"his ultimate duty being not to conclude the owner by his so-called award, but to fix the sum which in his best judgment fix the value and should be offered".

These observation of the Privy Council have later been approved by Supreme Court in *Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another*, .

7. In view of these authoritative pronouncements and none being cited to the contrary by the learned counsel for the respondent. I have no hesitation in my mind to hold that the Collector who under the Act acts as an agent of the government is fully competent to file an appeal by himself or on behalf of the government, Learned counsel for the respondent, however, has made a reference to the following three judgments AIR 1926 Lah 10(*Natha Singh v. Sundar Singh* AIR 1936 Lah 564 (*Nihal Chand v, Dist Board Mianwali*); 1913 Punj Re 59(*Fakir Chand v. Municipal Committee, Hazro*). But none of these is relevant to the Determination of the question in issue. What has been held in these cases is that

the persons or the body for whose purpose or benefit the State Government acquires the land is not competent to file an appeal of its own against the award of the Land Acquisition Court. As per these judgments, only State Government can file the appeal. The question whether the Collector can file an appeal of his own or on behalf of the State Government was not in issue in these cases.

8. For all these reasons, I overrule the preliminary objection raised by the learned counsel for the respondents.

9. So far as the merits of the appeal are concerned, I do not find any substance in the same. The lower court has recorded a categorical finding that after the construction of the thermal plant somewhere in the year 1968, the price in the locality or near about the same had undoubtedly started going up. The very fact that the suit land has been acquired for the purpose of constructing a marshalling yard of the said thermal plant is indicative of the fact that the presently acquired area lies in the close vicinity of the thermal plant. Site-plan Ex. R. 2 also reveals this factual position. In fixing the market value of the acquired land at the rates already indicated, the court primarily relied on a sale instance Ex. A 10 vide which 26 Bighas and 13 Biswas of Nehri land was sold for Rs. 65,000/- on May 22, 1969. The State-appellant chose to rely upon two mutation order relating to the sale of agricultural land Exs. R. 3 and R. 4. The learned counsel for the appellant is not in a position to locate the areas covered by these instances vis-à-vis the acquired land. In the absence of this, it is difficult to hold as to how these instances are at all relevant to the determination of the market price of the acquired land. Thus the lower court was perfectly justified in ignoring these two instances produced and proved on behalf of the State-appellant and to rely on Ex. A. 10.

10. In the light of the discussion above, this appeal fails and is dismissed but with no order as to costs.

11. Appeal dismissed.