
(1998) 08 P&H CK 0139

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12290 of 1997

Radhey Lal Gupta

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 19-08-1998

Acts Referred:

Citation : (1999) 1 ICC 775 : (1999) 1 LLR 272 : (1998) 2 PLJ 417 : (1998) 4 RCR(Civil) 295

Hon'ble Judges : V.K.Bali, J and B.Rai, J

Advocate : Mr. A.P. Manchanda, Addl. A.G., Haryana., Mr. M.L. Sharma, Advocate., Advocates for appearing Parties

Judgement

V.K. Bali, J.—Challenge herein is to notification issued under Section 4 of the Land Acquisition Act dated March 8, 1989 and the followup declaration issued under Section 6 of the said Act on March 7, 1990 as also to the award No. 30 of the year 1996/97 under Section 11 of the said Act dated October 30, 1996 as also notice under Section 9 of the Act vide which the petitioner was called upon to file objections under Section 5A of the Land Acquisition Act.

2. The only complaint of the petitioner raked through his counsel Mr. M.L. Sharma, Advocate, is that the award of acquisition of land was announced on December 30, 1996 and the composite award for land and building was not announced. The award itself categorically specified that the award with regard to structure would be announced only after the receipt of the assessment of the Technical Expert but no clear cut date has been laid down. Learned counsel relies upon a judgment of this Court in CWP No. 7314 of 1994 decided on January 5, 1995 to contend that two awards, one for the land and the other for construction is not permissible and further that inasmuch as the award with regard to superstructure has been announced on March, 28, 1997, in view of the judgment recorded by this Court, in the writ petition aforesaid, the entire proceedings had elapsed in view of the provisions contained in Section 11 of the Act.

3. Pursuant to notice issued by this Court, respondents have entered defence

and filed written statement contesting the cause of the petitioner. In the preliminary objections it has been pleaded that prior to filing of the present writ petition, petitioner filed CWP No. 4004 of 1990 challenging the same acquisition proceedings. The said writ petition was dismissed by this Court vide order dated March 28, 1995. Thereafter, award No. 30 dated December 30, 1996 in respect of the land was announced. The petitioner also filed civil suit for declaration with consequential relief of permanent injunction in respect of the same land acquisition proceedings which is still pending. It has further been pleaded that award in respect of the land was announced on December 30, 1996 and in accordance with law the land vested in the State of Haryana which had since been transferred to the HUDA free from all encumbrances. Supplementary award for building/structure has also been announced on October 29, 1997.

4. Realising his difficulty in setting aside the proceedings, based upon the judgment recorded by this Court in CWP No. 7314 of 1994, referred to above, in view of the authoritative pronouncement of the Apex Court on the issue in *Mohanji and Anr. v. State of UP & Anr.*, JT 1995(8) SC 599, learned counsel for the petitioner then confined his contentions to the unreasonableness in announcing the award of superstructure at such a belated stage for which the petitioner can be compensated by no means if he was to file land reference under Section 18 of the Act. We find no merit is the only contention of the learned counsel, as noted above. In *Mohanji's* case (*supra*), it was held that "in view of the fact that no piecemeal award by making a subsequent award after the expiry of the period of two years is contemplated in law, the award must be construed as the whole award made under Section 11 awarding compensation for the entire area with no compensation awarded for the building." That being the law, it could not be disputed that reference under Section 18 could be filed for not granting any compensation with regard to construction of the petitioner within the limitation prescribed from the time when award with regard to land was announced. That apart, if it may be permissible for the petitioner to seek reference under Section 18 with regard to acquisition of superstructure, it shall always be open for him to plead delay in making the award with regard to superstructure and the provisions of Land Acquisition Act do cater for providing interest etc. to the landowners.

No merit. Dismissed.