

(1993) 11 P&H CK 0112

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 177 of 1984

Shri Radhe Sham Sood and Others

APPELLANT

Vs

The Improvement Trust and Others

RESPONDENT

Date of Decision : 02-11-1993

Acts Referred:

Amritsar Improvement Trust Land Disposal Rules, 1951 — Rule 2(6)
Punjab Town Improvement Act, 1922 — Section 24, 28(2)

Citation : (1993) 105 PLR 437

Hon'ble Judges : S.D. Aggarwala, C.J;N.K. Sodhi, J

Bench : Division Bench

Advocate : R.S. Rana, for the Appellant; H.S. Mattewal and Gurminder Singh and S.S. Shergill, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—This appeal under Clause X of the Letters Patent is directed against the judgment of a learned single judge dismissing civil writ petition 3611 of 1978. Facts giving rise to this appeal which lie in a narrow compass may first be stated.

2. The Improvement Trust, Amritsar (for short "the Trust") framed a development scheme u/s 24/28(2) of the Punjab Town Improvement Act, 1922 (referred to hereinafter as "the Act") and it was published u/s 36 of the Act on October 16, 1964. The Scheme was sanctioned by the State Government on 3.4.1967 and published u/s 42 of the Act in the Punjab Gazettee on April 14, 1967. Land acquired for this scheme included an area of 1938 sq. yards belonging to the appellants herein. The acquisition proceedings were challenged in this Court in the aforesaid writ petition out of which the present appeal has arisen on the ground that those were not in conformity with the provisions of the Act and the law relating to compulsory acquisition by the State. The appellants also sought a writ of mandamus directing the Trust to allot an alternative site to them as they were displaced persons within the meaning of the Amritsar

Improvement Trust Land Disposal Rules, 1951 (referred to hereinafter as "the Rules"). The motion Bench while admitting the writ petition did not find any merit in the first contention that the acquisition proceedings were in any way contrary to the provisions of the Act or any other law regarding compulsory acquisition. In regard to the claim for alternative sites the Trust in its written statement disputed the right of the appellants to claim such a site. It was stated that a public notice in different newspapers was issued inviting applications from all local displaced persons on the prescribed form for the allotment of alternative sites. These applications were required to reach the office of the Trust till January 31, 1971. The appellants (writ petitioners) never filed any application within the prescribed period, and therefore, their case for allotment of alternative site/accommodation could not be considered. The learned single Judge after hearing counsel for the parties and going through their pleadings accepted the stand taken by the Trust and finding no illegality or infirmity in its action in not allotting the alternative sites to the appellants dismissed their writ petition. Hence the present appeal.

3. The only point raised before us is that the appellants who were displaced persons continued to remain in possession till August 3, 1978 and, therefore, acquisition proceedings qua them were not complete till then and, as such, they were entitled to the allotment of an alternative site under the Rules being displaced persons. Learned counsel referred to Rule 2 (b) of the Rules which defines a "local displaced person", the relevant part of which reads as under:-

"Local displaced person" means a person whose own property has been acquired by the Trust for execution of the scheme....."

The argument of the appellants is that they continued to be "local displaced persons" till possession was taken from them. There is no merit in this contention. After the land was acquired, the Land Acquisition Collector gave his award on January 6, 1971 and possession of the entire area was taken by the Trust for the execution of the development scheme. The appellants somehow continued to remain in unauthorised possession of the land thereafter and after the land in their possession was allotted to one Shri Gaimda Singh Gill under the Scheme they were dispossessed by the allottee. Moreover, applications had been invited from all displaced persons for the allotment of alternative sites and it was open to the appellants to apply within the stipulated time. They did not submit any such application. But instead kept clinging to their own land unauthorisedly. In our opinion, the learned Judge was right in not accepting this claim of the appellants.

4. No other point was raised.

5. In the result, we find no merit in the appeal and dismiss the same leaving the parties to bear their own costs.