
(2008) 10 P&H CK 0091
In the Punjab And Haryana At Chandigarh

State of Punjab

APPELLANT

Vs

Bhagat Singh and Others

RESPONDENT

Date of Decision : 15-10-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 9

Citation : (2009) 153 PLR 404 : (2009) 2 RCR(Civil) 243

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of two cases R.F.A. No. 1756 and 1757 of 1990, as common questions of law and facts are involved therein.

2. The land measuring 0.258 acres situated at village Bara Pind, Hadbast No. 326, Tehsil and District Ropar was notified vide notification issued u/s 4 of the Land Acquisition SYL Canal, Project, Patiala vide his award No. 218/R-SYL dated 19.11.1986 classified the land into three pars namely i) Barani Bet -1 Kanal and 8 Marlas, ii) Banjar Quadim -1 Kanal and 2 Marias, iii) Gair Mumkin - 0 Kanal and 14 marlas, and awarded compensation for (i) Barani Bet - Rs. 16,000/- per acre; Banjar Quadim Rs. 80,000/- per acre and Gair Mumkin - Rs. 3,792/- per acre. The Collector also announced supplementary award No. 262/R-SYL dated 20.3.1987 in respect of the same land i.e. for Banjar Quadim land 0 Kanal 7 marlas @ Rs. 80,000/- per acre and Gair Mumkin land 0 Kanal 1 marlas @ Rs. 3,792/- per acre. The assessed amount of the flour mill (Atta Chakki) was @ Rs. 31,600/- per acre.

3. Un-satisfied with the award claimant(s)/landowner(s) filed objections u/s 18 of the Act, in which it was averred that the applicants were not present at the time of the announcement of the award. The applicants came to know about the award when they were made the payment of the compensation on 29.3.1987. It was further averred that applicants have received the amount of compensation

on 29.3.1987, under protest as the amount of compensation awarded by the Land Acquisition Collector, SYL Canal, Patiala was most inadequate, insufficient and not acceptable because the land has great potential value at the time of its acquisition on account of the following reasons:

- i) That the land in question adjoins the Abadi of the village and there are 200 residential houses;
- ii) That there is Govt. school in the village and the same is near the acquired land.
- iii) That there is Govt. dispensary in the village.
- iv) That the national high way known as Chandigarh-Nangal Road, is near the acquired land.
- v) That the railway station is near the acquired land.
- vi) That Bharatgarh town is also located near the acquired land which is hardly at a distance of 20 yards from the acquired land.

4. The claim of the claimant(s)/landowner(s) was denied by the State and it was replied as under:

Not admitted. The petitioner Sh. Baldev Singh was present on 20.3.1987, at the time of announcement of award No. 262/R. He also appeared as attorney of Sh. Bhagat Singh and Gurbhajan Singh and received the payment of compensation on 20.3.1987 without protest. However, they were not present at the time of announcement of other award bearing No. 218 dated 19.11.1986. But their absence at the time of announcement of award is of no consequence as the notice u/s 9 was duly served and Sh. Baldev Singh himself and on behalf of others joined proceedings and , made a statement.

- i) The contents of this para are denied. The land in dispute had no special potential value rather it was Banjar Quadim as per entries in the revenue record (Jamabandi etc).
- ii) Not admitted. The land was situated at the bank of the Bhakra Main Canal and could not be utilized for abadi purposes and had no link with the same. The abadi of the village is situated at a considerable distance from the acquired land.
- iii) Not admitted.
- iv) Not admitted. The situation of the land in question on the Chandigarh-Nangal Road has not in any way increased its value because there is no abadi or commercial establishment nearby.
- v) Not admitted.
- vi) Not admitted. The land has no potential value. The abadi of village Bharatgarh is at a distance of few kilometers from the acquired land.

5. After considering the evidence on record, the Additional District Judge, Ropar vide his award dated 4.4.1990 assessed the compensation of the acquired tend @. Rs. 1,00,000/- per acre besides awarding other statutory benefits as per the amended Act.

6. Sh. N.S. Pawar, Addl. A.G. Punjab appearing on behalf of the State/Appellant(s) has raised only one argument that objections filed u/s 18 of the Act were not maintainable as the compensation was accepted without protest.

7. I have heard the learned Counsel for the appellant(s) and perused the record. As per the averments of the landowner(s)/claimant(s) the payment was received on 29.3.1987, under protest and the objections were filed on 20.4.1987 within the period of limitation. It has also come in the pleadings of the respondent(s) that at the time of the announcement of the award bearing No. 218/R-SYL, dated 19.11.1986, the claimant(s)/landowner(s) were neither present nor there is any evidence on record showing that the claimant accepted the compensation without protest.

8. In this regard, in the case of U.P. State Industrial Development Corporation Vs. Rishabh Ispat Ltd. and Others, , it has been held by the Apex Court that the question whether the compensation offered was accepted without protest is essentially a question of fact to be determined on the basis of evidence on record. In the said case, it was held that the filing of reference application by claimants within; limitation amounts to protest.

9. In the present case, it is apparent that the claimants were not present when the award was announced and had filed the objections within the limitation after receiving the payment of compensation. Therefore, the plea raised by the counsel for the appellant(s)/State that the objections u/s 18 of the Act are not maintainable is unsustainable as no evidence has been led by the State to the effect that the compensation has been received by the claimants without protest. Moreover, in the case of "Lachhman Dass v. State of Himachal Pradesh and Anr. 1988(1) RRR 494 (D.B.), it has been held that owner accepting the compensation without protest being an illiterate villager without knowing the implication of receiving compensation without protest does not amount to waiver. Similarly, in the case of "Chanan Singh and Anr. v. State of Punjab and Anr. 1988(2) RRR 482, it has been held that if the landowner accepting award without indicating in writing that he was accepting the award without protest than it does not amount to estoppel or waiver on the part of landlord.

10. Since it is an admitted fact by the State that the landowners were not present at the time of announcement of the award bearing No. 218/R-SYL dated 19.11.1986 and no ; evidence has been led by the State to the effect that the landowner(s) has given in writing that they have no objection against the award coupled with the fact that the objections u/s 18 of the Act have been filed within the period of limitation, the question of receiving the compensation without protest and non-maintainability of objections u/s 18 does not arise at all.

In view of the above discussion, I do not find any merit in the submissions of the counsel for the State/Appellants) and both the appeals are, thus, dismissed without any order as to costs.