
(1988) 08 P&H CK 0123
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 2414 of 1980

Suraj Bhan

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 02-08-1988

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1988) 08 P&H CK 0123

Hon'ble Judges : Jai Singh Sekhon, J

Bench : Single Bench

Advocate : I.S. Saini, for the Appellant; K.K. Gupta for A.G. Hy., for the Respondent

Judgement

Jai Singh Sekhon, J.—This order will dispose of Civil Revisions Nos. 2414, 2415, 2416 and 2417 of 1980, as they arise out of the same order of the learned Additional District Judge, Kurukshetra, dated 28th July, 1980, dismissing the application of the petitioner for the restoration of his claim petition filed u/s 18 of the Land Acquisition Act, 1894 (hereinafter called the Act), which was dismissed in default of his non-appearance on 17th May, 1979.

2. In brief, the facts relevant for the disposal of this petition are that all the claimants filed reference u/s 18 of the Act before the District Judge, Karnal. On 7th September, 1977, all these references were adjourned sine die by the District Judge, Karnal, due to heavy work. Thereafter, on the creation of a Civil District and Session Division at Kurukshetra, all these references were transferred to the Court of the District Judge, Kurukshetra. Notices were issued to the petitioner and his counsel for 17th February, 1979, on which date only the Government Pleader put in appearance. Notices were again given to the claimants and their counsel for 7th March, 1979 when Mr. S.K. Sahnj appeared as proxy for Mr. C.L. Malhotra who had been appearing for the claimants at Karnal. Thereafter, the references were adjourned to different dates in the presence of Mr. C.L. Malhotra or his proxy. Ultimately, no body appeared on behalf of the petitioner, which

resulted in the dismissal of the reference in default. The petitioner along with the claimants filed applications for restoration on 7th November, 1979, contending that they had learnt from their counsel about the dismissal of their claim applications a day earlier. It was further contended that their counsel, Mr. C.L. Malhotra, Advocate, practising at Karnal informed them that they would receive the summonses from the Court, but no such summonses were received by them. This application was resisted by the State, contending that their counsel had put in appearance on their behalf before the Additional District Judge, Kurukshetra.

3. The learned Additional District Judge after appraising the evidence led by the claimants, disbelieved their plea of having taken the briefs from Mr. C.L. Malhotra, Advocate, Karnal.

4. The learned counsel for the petitioner, as well as Mr. K.K. Gupta, learned counsel appearing on behalf of the State of Haryana, conceded that this case is fully covered by the decision of this Court in *Smt. Kamla Devi v. State of Haryana* (1986-1) 89 P.L.R. 692, to the effect that a reference u/s 18 of the Act cannot be dismissed in default and the Court has to give findings whether the compensation awarded by the Land Acquisition Collector in its award was adequate.

5. In the present case, the learned Additional District Judge had not given any finding regarding the propriety of the award of the Land Acquisition Collector. In these circumstances in view of the findings of this Court in *Smt. Kamla Devi's* case (*supra*), there is no option but to conclude that the order of the learned Additional District Judge dismissing the references u/s 18 of the Act in default for non-appearance of the petitioner is not legally sustainable. The matter does not rest here as Mr. C.L. Malhotra, counsel for the petitioners had undertaken to appear on their behalf before the Court of the District Judge, Karnal and not before any Court at Kurukshetra, because at the time of his initial engagement no Civil Court or Session Division had been created at Kurukshetra. There is nothing on the file to show that the petitioner or any other claimant was got served in person. Thus, there are sufficient grounds for restoring the above referred reference on facts also.

6. For the foregoing reasons, the impugned order of the Additional District Judge is set aside by accepting this revision petition and the references are ordered to be restored at their original numbers. The Additional District Judge shall ensure giving notice to the parties in person and then proceed in accordance with law. There is however, no order as to costs.