
(2010) 12 P&H CK 0104
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 12312 of 1990

Surinder Singh and Others	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 17-12-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2010) 12 P&H CK 0104

Hon'ble Judges : Jasbir Singh, J; Augustine George Masih, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Jasbir Singh, J.—This order will dispose of CWP Nos. 12312 of 1990 and 13184 of 1990, involving similar questions of law and facts. For the purpose of dictating order, facts are being mentioned from CWP No. 12312 of 1990.

2. This writ petition has been filed to lay challenge to a notification dated 21.4.1987, issued u/s 4 of the Land Acquisition Act, 1894 (in short, the Act), to acquire 28.04 acres of land for a public purpose, namely, to develop the land as residential and commercial area. Further challenge has been made to a declaration, issued u/s 6 of the Act, on 20.4.1988, declaring intention of the Respondents to acquire 27.47 acres of land.

3. Award was pronounced on 12.4.1990. This writ petition was filed thereafter on 11.9.1990.

4. It is contention of counsel for the Petitioners that award, mentioned above, was vitiated because no compensation was provided for the super-structures existing over the land, in dispute. It is further contended that a building of the Petitioners was not released, whereas adjoining land falling in khasra No. 30//21/2, with construction thereon was released from acquisition.

5. Upon notice, reply was filed wherein it is stated that when notification u/s 4 of

the Act was issued, there was no construction in the land owned by the Petitioners. The construction was raised subsequent thereto. It is further stated that the notices under Sections 4 and 6 of the Act were published as per procedure provided under the Act. Despite opportunity given, the Petitioners failed to file any objection u/s 5A of the Act. It is further stated that the land falling in khasra No. 30//21/2 was released because construction was existing in that land, which was raised before the issuance of a notification u/s 4 of the Act.

6. After hearing counsel for the parties and perusing the record, we are not inclined to interfere at the instance of the Petitioners.

7. In the reply filed, it is specifically stated that when notification u/s 4 of the Act was issued, there was no construction in the land owned by the Petitioners. To the averments made, no replication has been filed. There is nothing on record to show that any construction was in existence when notification u/s 4 of the Act was issued. Furthermore, once, the Petitioners have not filed any objection u/s 5A of the Act, it is not open for them to lay challenge to the acquisition of their land.

8. In view of ratio of judgment of the Hon''ble Supreme Court in, writ petition at the instance of a land owner, who Delhi Administration Vs. Gurdip Singh Uban and Others etc., has not filed objections u/s 5A of the Act, is not maintainable.

9. Further contention of counsel for the Petitioners that award is vitiated because it does not provide compensation for the super-structures, is also liable to be rejected, firstly, on the ground that there was no construction when notification u/s 4 of the Act was issued, secondly, if no compensation was provided for the super-structures and it was due, then the Petitioners, to claim the same should have agitated their rights by filing an application u/s 18 of the Act. In view of ratio of the judgment of the Hon''ble Supreme Court in Mohanji and Anr. v. State of U.P. and Ors. JT 1995 (8) SC 599, on account of the above said fact, award cannot be set aside.

10. It is also an admitted fact that the writ petition was filed after passing of the award. In view of judgments of the Hon''ble Supreme Court in Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others, The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others, ; C. Padma and Others Vs. Dy. Secretary to the Govt. of T.N. and Others, ; Star Wire (India) Ltd. Vs. State of Haryana and Others, ; and Swaika Properties Pvt. Ltd. and Another Vs. State of Rajasthan and Others, . Sawaran Lata etc. Vs. State of Haryana and Others, , no relief can be granted to the Petitioners on this score also.

11. Dismissed.