
(1996) 02 P&H CK 0022
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1196 of 1981

Swarn Singh and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 01-02-1996

Acts Referred:

Land Acquisition Act, 1898 — Section 18

Citation : (1996) 113 PLR 104 : (1996) 3 RCR(Civil) 393

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : I.S. Bajwa, for the Appellant; Manjit Singh, Assistant A.G., for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—The petitioner has invoked the certiorial jurisdiction of this Court under Article 226 of the Constitution to direct the Collector-cum-Land Acquisition Officer, Urban Development, Punjab, Mohali, u/s 18 of the Land Acquisition (for short the "Act") for enhancement of compensation.

2. According to the petitioner, he alongwith one Swarn Singh son of Bhagat Singh purchased a plot of land in the year 1974 measuring 6 kanals comprised in Khasra Nos. 104/7, 14, 17, 24/1 in village Jamalpur Awana. Thereafter, the land was acquired by the State of Punjab alongwith some other lands and an award was passed on 31.3.1976. According, to the petitioner, he and the other respondents have filed application before the Land Acquisition Officer for making a reference to the Court of competent jurisdiction as they have not been satisfied with the award of compensation. The application of the 4th respondent was referred to the Court u/s 18 of the Act while the request of the petitioner to make a reference was rejected on the ground that it was not filed within time. The petitioner moved the Additional District Judge, Ludhiana, to get himself impleaded in the reference made in the case of Swarn Singh son of Bhagat Singh. The Additional District Judge, Ludhiana by an order dated 20.11.1990

rejected the application of the petitioner Swarn Singh son of Bhalwant Singh on the ground that the reference was not made in his case by the Land Acquisition Officer and the civil Court cannot directly receive the reference from the party. By his judgment dated 27.11.1980, the Additional District Judge, Ludhiana, awarded compensation at the rate of Rs. 72,000/- per acre to those applicants whose applications were referred to him u/s 18 of the Act. As the petitioner's request for making a reference was not acceded to by the Land Acquisition Officer and the learned Additional District Judge did reject the prayer of the petitioner for entertaining the application directly u/s 18 of the Act. The petitioner filed this writ petition seeking a direction to the Land Acquisition Officer to make a reference of his case also u/s 18 of the Act.

3. The Land Acquisition Collector filed a written statement wherein it was admitted that the petitioner and Swarn Singh son of Bhagat Singh owned joint land measuring 6 kanals as mentioned in the writ petition in the revenue estate of Jamalpur Awana and that the land was acquired and an award was passed on 31.3.1976. It is further stated that the petitioner and other joint owners filed a joint application for reference u/s 18 of the Act before the Collector on 15.2.1978 and the application of the petitioner Swarn Singh son of Balwant Singh was filed after the expiry of period of limitation. The Collector held that reference qua the petitioner time-barred while the reference qua other joint owner, Swarn Singh son of Bhagat Singh was held to be within limitation. Accordingly, the reference qua the petitioner was rejected by the Land Acquisition Collector and the petitioner was informed vide letter No. LAC-Punjab-792415, dated 7.6.1979, which was served on the petitioner on 13.8.1979. According to the Collector, after the receipt of the order, the petitioner did not file any revision in the High Court u/s 18(3) of the Act within 90 days and, therefore, the writ petition is liable to be dismissed.

4. The only point that arises for consideration in this writ petition is when the reference was made u/s 18 of the Act in respect of joint owners of the land acquired, can the request of another co-sharer be rejected on the ground that it is barred by time.

5. There is no dispute on facts of this case. The land belonging to the petitioner and 4th respondent was acquired and the award was passed in the year 1976. Thereafter, the petitioner and the 4th respondent alongwith some other land owners whose lands were also acquired, made a joint application to the Collector- cum-Land Acquisition Officer to make a reference u/s 18 of the Act, but the application qua the petitioner was rejected on the ground that it was not filed within time stipulated in Section 18 of the Act.

6. It has been held by this Court in Harmanjit Singh and Ors. v. Land Acquisition Collector, Gurgaon and Ors. (1987)92 P.L.R. 188, as follows :-

"A reference made by those set of co-sharers for the enhancement of compensation would normally enure to the benefit of other co-sharers as well,

since the land acquired was one and their interests in every fraction of it however microscopic they were, joint and indivisible. The mere fact that their respective shares were defined in the record of rights being 1/32nd share each is not synonymous to say that each share was distinct and specified as is the view of the learned Additional District Judge. For shares to be distinct and specified an element of exclusiveness and separateness needs to come to the fore so that the distinction stands prominently focussed so as to contrast with the other. No such element has been pointed out to me except to suggest that the respective shares are so categorised in the ownership column of the jamabandi. That by itself is not distinctive to deprive the petitioners the fruits of the battle fought by their co-sharers in the Court of District Judge. Being joint owners effort by some is in the eye of law a joint effort."

7. It is also useful to refer to the decision of this Court in Land Acquisition Collector, P.S.E.B. v. Jagdish Raj and Ors. (1991)100 P.L.R. 648, wherein it has been held as follows :-

"The settled position of law is that in a joint property in which co-owners have no distinct and specified shares, the others can take advantage of the result of the reference sought by one of them u/s 18 of the Land Acquisition Act. Some of the relevant judgments have been adverted to by the lower Court in the order in question. I add one more to these i.e. Bagh Singh and Others Vs. The Special Land Acquisition Collector, Jalandhar and Another, , wherein it was opined that :-

"If the property acquired is joint and the co-owners have no distinct and specified shares therein, then a reference" u/s 18 of the Act by one of the co-owners for the enhancement of the compensation awarded by the Land Acquisition Collector will enure for the benefit of the other co-owners who is wanting enhancement in the compensation was also acting on behalf of the other co-owners because their interests are joint and indivisible."

8. In view of the authorities referred to above, I am of the opinion that the joint application filed by all the co-owners has to be referred to the Court for enhancement of the compensation u/s 18 of the Act as all the joint owners have got the same cause of action. If the application of one of the co-sharers has been referred to the Collector u/s 18 of the Act, the same enure to the benefit of other co-sharers also.

9. In view of the foregoing discussion, I allow the writ petition and direct the Land Acquisition Officer to refer the case of the petitioner also to the Court u/s 18 of the Land Acquisition Act for enhancement of the compensation within two months from today.