
(2017) 01 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 21682 of 2015 (O&M)

Tej Paul Oswal

APPELLANT

Vs

Improvement Trust, Ludhiana

RESPONDENT

Date of Decision : 10-01-2017

Acts Referred:

Punjab Town Improvement Act, 1922 — Section 36, Section 42

Citation : (2017) AIRCC 1831 : (2017) 2 PLR 547 : (2017) 3 RCRCivil 177

Hon'ble Judges : Rajesh Bindal and Harinder Singh Sidhu, JJ.

Bench : Division Bench

Advocate : A.B.S. Sidhu, Advocate, for the Petitioner; G.C. Garg, Advocate, for the Respondents No. 1 and 2

Final Decision : Disposed Off

Judgement

Rajesh Bindal, J.—The petitioner has filed the present writ petition challenging the award dated 01.10.1986 passed by the Land Acquisition Tribunal, Ludhiana Improvement Trust, Ludhiana (for short "the Tribunal") determining the amount of compensation.

2. The land belonging to the late father of the petitioner was acquired vide notification dated 08.08.1976 issued under Section 36 of the Punjab Town Improvement Act, 1922 (for short "the Act"). Notification under Section 42 of the Act was issued on 24.11.1978. Though the other land owners filed writ petitions in this Court challenging the award of the Tribunal and seeking further enhancement of the compensation, however, the petitioner could not avail of the remedy as his father had expired on 27.01.1982, prior to the award of the Tribunal. A bunch of petitions seeking enhancement of the compensation were decided by this Court vide detailed judgment in CWP No.4890 of 1986 titled "Prem Gupta v. The Improvement Trust and another decided on 16.05.2006 enhancing the compensation from different rates awarded by the Tribunal to Rs. 39/- per square yard along with interest and solatium.

3. The claim in this petition is that the land of the father of the petitioner having been acquired by the same notification, therefore, he is also entitled to the same amount of compensation. Explaining the delay in filing the writ petition, he submitted that after the death of his father Lachhman Dass on 27.01.1982, there was a dispute amongst three brothers about his inheritance. Two other brothers projected a Will dated 15.01.1982 executed by Lachhman Dass, which the petitioner was disputing. As a result of the dispute, the amount of compensation belonging to late Lachhman Dass was not withdrawn by any of the legal heirs. Other two brothers filed a petition for issuance of succession certificate, which was dismissed on 04.05.2012. The judgment of the Trial Court was upheld in appeal vide judgment dated 26.02.2015. Thereafter, the petitioner approached the Land Acquisition Collector vide letter dated 20.07.2015 requesting for release of the compensation to the extent of 1/3rd share and the amount was paid to him. The prayer is for grant of enhanced compensation in terms of the judgment of this Court in Prem Gupta's case (supra).

4. In support of the plea that delay in filing the case seeking enhanced compensation should not come in the way of the land owners and he should be treated at par, reliance was placed upon the judgments of Hon'ble the Supreme Court in Samiyathal and others v. Spl. Tahsildar and others, 2015 (2) RCR (Civil) 441; Dhiraj Singh (D) Tr. Lrs. Etc v. Haryana State and others, 2015 (2) RCR (Civil) 507 and Imrat Lal and others v. Land Acquisition Collector and others, 2015 (2) RCR (Civil) 437.

5. On the other hand, learned counsel for respondents No.1 and 2 submitted that bonafides of the petitioner are in dispute. Nothing has been produced on record to show that any amount of compensation has been paid to the petitioner. The writ petition is highly belated.

6. Heard learned counsel for the parties and perused the paper book.

7. Undisputed facts on record are that the big chunk of land measuring 256 acres was acquired vide notification dated 08.08.1976 issued under Section 36 of the Act, which was followed by notification dated 24.11.1978 issued under Section 42 thereof. The award was announced by the Collector on 12.06.1980. Dissatisfied with the said award, the land owners approached the Tribunal. At the time of acquisition, the land was recorded in the name of late Lachhman Dass, father of the petitioner. He died on 27.01.1982. As there was dispute amongst the brothers, no proceedings for further enhancement of compensation could be taken by them. This Court in Prem Gupta's case (supra), enhanced the compensation to Rs. 39/- per square yard for the entire land. The land owners were also held entitled for solatium and interest. The petitioner is also claiming the same amount of compensation.

8. Explaining the delay, the petitioner has placed on record the judgment of the Trial Court whereby the LRs of one of the brothers and other brother had filed a petition seeking issuance of succession certificate on the basis of Will dated

15.01.1982 allegedly executed by late Lachhman Dass in their favour. However, their claim was rejected by the Trial Court vide judgment dated 04.05.2012. In appeal, the judgment of the Trial Court was upheld vide judgment dated 26.02.2015. On account of the dispute amongst the brothers, even the amount of compensation awarded was not received by any of them. It was only after the dispute regarding the issuance of succession certificate was decided on 26.02.2015 that the petitioner approached the Land Acquisition Collector vide letter dated 20.07.2015 for release of 1/3rd share being legal heir of late Lachhman Dass and entitled to payment of compensation to that extent. The amount was paid to him.

9. There is no dispute that for the same acquisition, the amount of compensation was finally determined by this Court at the rate of Rs. 39/- per square yard. In addition, the land owners were also held entitled to solatium and interest. No doubt, so far as the amount of compensation is concerned, the petitioner is also entitled to the same in terms of the judgment of this Court in Prem Gupta's case (supra) as modified vide order dated 06.02.2009.

10. As there is huge delay in filing the writ petition seeking enhancement of compensation, the issue arises as to whether the petition deserves to be dismissed on account of delay and laches or any other relief can be granted to the petitioner.

11. Hon"ble the Supreme Court considered the issue regarding the delay in filing appeals by the land owners seeking enhancement of compensation in Dhiraj Singh's case (supra). In the aforesaid judgment, it has been opined that if there is any delay in filing the appeal seeking enhancement of compensation, the land owners shall not be entitled to the payment of interest for that period. The same principle can be applied here.

12. For the reasons mentioned above, holding that the petitioner shall be entitled to the enhanced compensation in terms of the judgment of this Court in Prem Gupta's case (supra) as modified vide order dated 06.02.2009, but he shall not be entitled to the payment of interest on the enhanced compensation for the period of delay in filing the petition, namely, from the date of award of the Tribunal till the date of filing of the petition, the present petition is disposed of accordingly.