

(1965) 09 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Letters Patent Appeal No. 2 of 1962

The State of Punjab

APPELLANT

Vs

Karanbir Singh

RESPONDENT

Date of Decision : 01-09-1965

Acts Referred:

Land Acquisition Act, 1894 — Section 18
Punjab Laws (Extension No. 1) Act, 1957 — Section 6

Citation : AIR 1966 P&H 230 : (1966) 1 ILR (P&H) 638

Hon'ble Judges : D. Falshaw, C.J; Mehar Singh, J

Bench : Division Bench

Advocate : B.S. Chawla, General, for the Appellant; D.C. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

D. Falshaw, C.J.—The facts in this appeal filed under Clause 10 of the Letters Patent by the State are that Karanbir Singh respondent owned some land which was included in an area acquired by the Government for the establishment of an Industrial Training Institute at Patiala The acquisition proceedings concluded with an award given by the Collector on the 31st of March 1956.

2. At the instance of Karanbir Singh a reference was made to the Court of the District Judge u/s 18 of the Act. The then learned District Judge held by his order dated the 29th of April 1957 that the reference was Incompetent, because the compensation had been accepted without protest, but Karanbir Singh obtained an order in revision from this Court in May 1958 for the reference to be decided after the respondent had been given an opportunity to produce evidence in rebuttal regarding the grounds on which the reference had been held to be incompetent

3. The learned District Judge who decided the reference by his order dated the 1st of November 1958 again held that the reference was incompetent, but at the same time gave a finding to the effect that the proper value of the land was Rs.

1,000.00/- per bigha as against Rs. 700.00/- awarded by the Collector.

4. In the appeal filed by Karanbir Singh in this Court the learned Single Judge held that the reference was competent and on the merits held that the proper value of the land was Rs. 1,250.00/- per bigha. He accordingly held that Karanbir Singh was entitled to receive an additional amount of Rs. 1,952.50/- together with the statutory 15 p.c. for compulsory acquisition and also interest on this amount at the rate of 6 p.c. per annum from the date on which the possession of the land was taken by the Government up to the date of payment.

5. In this appeal filed by the State only one ground had been taken, namely that under law interest could only be allowed on the enhanced compensation at the rate of 4 p.c. and not 6 p.c. This was based on the fact that by an amendment introduced in 1954 the Punjab Government had altered the rate of 6 p.c. mentioned in Section 28 of the Land Acquisition Act to 4 p.c. and that at the time the reference was decided by the learned District Judge which was after the merger of the Pepsu with the State of Punjab on the 1st of November 1956 the law applicable was the Land Acquisition Act as amended by the Punjab Government. The Law in force at the time of the acquisition proceedings was the Land Acquisition Act of 1894 as extended to Pepsu by the Pepsu Laws Extension Act. 12 of 1955)

6. It was contended on behalf of the State that no right to interest on any enhanced amount of compensation accrued to Karanbir Singh until the matter was decided in his favour by the learned Judge of this Court, and that therefore the law to be applied regarding the rate of interest payable on the enhanced compensation was that contained in the Land Acquisition Act as amended in the Punjab. On the other hand it was contended on behalf of Karanbir Singh that the law to be applied was that which was in force at the time of the acquisition proceedings and all the time when possession of the land was taken by the Government, and that the date of the determination of his right to any sum of enhanced compensation was irrelevant, reliance being placed on the provisions of Section 6 of the Punjab Laws (Extension No. 1) Act of 1957 which reads --

"If immediately before the commencement of this Act there is in force in the transferred territories any law corresponding to any of the enactments or rules regulations notifications orders and by-laws made and directions or instructions issued thereunder extended to those territories by Section 4, that law including the enactments specified in Schedule III shall on the commencement of this Act, save as otherwise expressly provided in this Act stand repealed:

" Provided that such repeal shall not affect --

(a) " (b) any right, privilege obligation or liability acquired or incurred under any law so repealed, or

(c) - (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or

punishment as aforesaid.

The effect of this, it is contended, is that the reference u/s 18, which, since no objection regarding limitation appears to have been raised, must have been made within the period of limitation mentioned in Section 18, and therefore before the merger of the two States, had to be decided at all stages according to the law then in force i.e., in accordance with the provisions of Section 28 of the Land Acquisition Act without the Punjab Government. This section reads

"If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court."

7. In my opinion there is force in the contention advanced by the learned counsel for the respondent. The acquisition proceedings took place and the reference was made to the Court of the District Judge u/s 18 of the Land Acquisition Act as applied to Pepsu and was to be decided in accordance with those provisions. The mere fact that no enhancement of compensation was made until some years later by a learned Judge of this Court appears to me to be wholly immaterial. Under the terms of Section 28 the right to interest on any enhanced compensation clearly dates back to the date on which the Collector, took possession of the land, and in my opinion the rate of interest must be in accordance with the law in force at that time. I would accordingly dismiss the appeal with costs.

Meiari Singh, J.

8. I agree.