
(2002) 01 P&H CK 0030
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 371 of 1991

Udmi and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 22-01-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 20, 3

Citation : (2002) 4 RCR(Civil) 764

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : Hemant Bassi, for Ajay Lamba, for the Appellant; J.P. Dhull, A.A.G. for Respondent No. 1 and Sanjay Majithia, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This revision petition is filed against the order dated 12.12.1990 passed by the Additional District Judge, Gurgaon allowing the application of the respondent-State wherein a prayer was made for impleadment of respondent No.2 i.e, M/s I.B.P. Company Limited 149, Sector 17, Urban Estate, Gurgaon, The order impugned in this petition reads as under:

"Shri V.S. Vashi State Advocate has moved an application u/s 18 of the L.A. Act for impleading party I.B.P.Co. Application is accepted. Name of the company be added in the petition and registered. W/s on behalf of Haryana State filed. Copy given. Adjourned to 5.1.1991 for filing the written statement."

2. Shri Hemant Bassi, learned counsel for the petitioner has assailed this order on the ground that the application filed by respondent No. 2 alone could have enabled the Court to allow his impleadment and the application at the instance of respondent No. 1 was not maintainable. His other submission is that notice of the application should have been issued to him because u/s 20 of the Land Acquisition Act, 1894 (for brevity the Act), notices are required to be issued for determination of an objection with regard to proceedings u/s 18 only to person

interested. The land is acquired by the State and none else could be person interested except the acquiring authority. According to the learned counsel, respondent No.2 under sub Section 2 of Section 50 of the Act was entitled only to assist respondent No. 1 and at best could have adduced evidence.

3. Shri J.P. Dhull, Assistant Advocate General, Haryana, appearing for the State of Haryana and Shri Sanjay Majithia, Advocate for respondent no.2, have submitted that the controversy with regard to person interested or as to whether the company, corporation, society or any person for whose benefit the land is being acquired is a necessary party has been settled by a catena of judgments. For this proposition, learned counsel placed reliance on various judgments of the Supreme Court rendered in the cases of Neelagangabai and another Vs. State of Karnataka and others, : Krishji Upaj Mandi Samiti v. Ashok Singhal 1991 Suppl. (2) S.C.C. 419: Union of India v. Sher Singh (1994)106 P.L.R. 216 (S.C.) and Bihar State Electricity Board v. State of Bihar, 1994 Suppl. (3) S.C.C. 743 and it argued that private corporation, company, society or other registered body or persons for whose benefit the land is acquired are held to be persons interested within the meaning of Sections 3(b), 18 and 20 of the Act and, therefore, the order dated 12.12.1990 allowing the impleadment of respondent no. 2 does not suffer from any material irregularity or illegality. They also submitted that there is no error of jurisdiction in passing the impugned order by the learned Addl. District Judge. With regard to the other contention that notice of the application was not issued to the petitioner, the learned counsel submitted that under Order 1 Rule 10(2) of the Code, the Court is competent to implead any of the persons who are necessary/proper party even without an application and there is no bar that only a party interested should file an application only to confer jurisdiction on the trial Court to allow the impleadment.

4. I have thoughtfully considered the respective submissions made by the leaned counsel for the parties.

5. The view that a private company, corporation, society or a body or person is not entitled to be heard was held by a Full Bench of this Court in the case of Kulbhushan Kumar and Co. v. State of Punjab (1983)85 P.L.R. 768 (F.B.) and Haryana 55 and also be another Full Bench in Indo Swiss Time Limited, Dundahera v. Umrao (1981)83 P.L.R. 335 (F.B.). However, this view was specifically overruled by the Hon'ble Supreme Court in Sher Singh's Case (supra) wherein their Lordships after extensive discussion of the case law overruled the Full Bench decisions of this Court in Kulbhushan Kumar's (supra) and Indo Swiss's case (supra) and held that preponderance of judicial opinion was in favour of the view with the definition of person interested must be liberally construed so as to include a body, local authority or a company for whose benefit the land is acquired and who is bound under the agreement to pay compensation. The view of their Lordships's in Sher Singh's case (supra) reads as under:-

"It may be further noted that the above decision in Himalayan Tiles and Marbles

(P) Ltd. case was given on March 28, 1980 and has been consistently followed by this Court as already mentioned above in the cases of Nellagangabai and Krishi Upaj Mandi Samiti decided on May 3, 1990 and March 25, 1991 respectively. No decision was brought to our notice by the learned counsel taking a contrary view after the decision in Himalayan tiles and marbles case. Even in the case of Indo Swiss Time Ltd. S.S. Sandhawalia, C.J., has followed the judgment in the Himalayan Tiles and Marbles case and had rightly distinguished the case of the Municipal Corporation of the City of Ahmedabad. The majority view in the above case which followed the Municipal Corporation of the City of Ahmedabad is held to be wrong. So far as later Full Bench of Punjab and Haryana High Court in Kulbhushan Kumar and Co. Case is concerned, it had followed its earlier decision in Indo Swiss Time Ltd., Case and as such while approving the minority view of S.S. Sandhawalia, C.J., we overrule both the above Full Bench decisions of the Punjab and Haryana High Court being contrary to the law laid down by this Court in Himalayan Tiles and Marbles Case"

6. Similar view has been taken by the Hon"ble Supreme Court in Bihar State Electricity Board"s case (supra) and also in Neelagangai Bai"s case (supra). Therefore, I do not find any hesitation to come to the conclusion that respondent no. 2 was a person interested and for that reason a necessary party.

7. The other contention raised by the petitioner that the application should have been moved by respondent No. 2 and that the notice of the application should have been issued to the petitioner do not require serious consideration because the provisions of sub Rule 2 of Rule 10 of Order 1 of the Code postulate impleadment of any party whose presence before the Court is necessary in order to enable it to effectively and completely adjudicate the matter before it. There is no necessity even to file an application under Order 1 Rule 10 of the Code. Presuming for the sake of argument that no application was moved by respondent no. 1 and the court on its own has impleaded respondent no.2 in view of the legal position discernible from the binding precedents, no objection could be raised by the petitioner. Therefore, there is neither any illegality nor any material irregularity and also there is no error of jurisdiction in allowing the application of respondent no. 1 for impleadment of respondent No. 2 who is a necessary party being person interested within the meaning of Sections 3(b), 18 and 29 of the Act.

8. For the reasons mentioned above, the revision petition fails and is accordingly dismissed.