
(1999) 12 P&H CK 0088

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 4249 of 1996

Union of India (UOI)

APPELLANT

Vs

Kartar Singh and Others

RESPONDENT

Date of Decision : 16-12-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

Citation : (2000) 126 PLR 23 : (2000) 2 RCR(Civil) 233

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : S.K. Sharma, for the Appellant; M.L. Sarin Hemant Sarin, H.S. Mattewal, A.G. and A.S. Grewal, D.A.G., for the Respondent

Judgement

Swatanter Kumar, J.—This Regular First Appeal is directed against the judgment/ award passed by the learned Additional District Judge, Bathinda dated 7th May, 1998. Vide notification dated 8.7.1988 issued u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act), the State of Punjab had acquired land measuring about 41 acres 1 kanal and 9 marlas in the revenue estate of Village Bibiwala for the construction of Indo-Tribetan Board Police Complex at village Bibiwala, District Bathinda. The Collector had awarded compensation to the claimants for acquisition of their respective land. Upon reference preferred u/s 18 of the Act, the learned Additional District Judge, Bathinda, enhanced the compensation and granted Rs. 3 lacs per acre with all statutory benefits to the claimants. This judgment has been challenged in the present appeal.

2. Union of India preferred the present Regular First Appeal along with an application for impleading it as a party and for permission of the Court to prefer the appeal. It is stated in this application that Union of India had filed the application under Order 1 Rule 10 of the Code of Civil Procedure, during the pendency of reference before the learned Additional District Judge under S.18 of the Act. This application for impleadment was dismissed by the learned Additional District Judge. The Union of India challenged the said order in a Civil

Revision before the High Court. The revision petition preferred by the Union of India against that order was also dismissed by the High Court in limine. The order of the High Court was challenged by the Union of India before the Hon''ble Supreme Court in Special Leave Petition. The SLP preferred by the Union of India, being Civil Appeal No. 2629 of 1999 was disposed of by the Hon''ble Supreme Court, vide its order dated 20th August, 1999. The relevant part of the order reads as under;-

"It appears that the decision of this Court in Union of India v. Sher Singh (1994)106 P.L.R. 216 (S.C.) was not brought to the notice of the High Court for otherwise the High Court would not have passed the order which it did. In Sher Singh's case this Court, in no certain terms, held that the expression "any person interested" occurring in Section 18 of the Land Acquisition Act would include a person for whose benefit the land was acquired. In that case the land was acquired by the State Government for National Security Guards at the behest of the Union of India and this Court held that an application moved by the Union of India during the pendency of the reference u/s 18 should have been allowed and the High Court in that case, had erred in dismissing the said application. The position in the present case is identical. The acquisition is for the benefit of I.T.B.P. and compensation in respect thereof has to be paid by the Union of India. Union of India, therefore, is an interested person and entitled to become a party in the proceedings u/s 18.

xx xx xx xx xx Following the decision of this Court in Union of India v. Sher Singh and Ors. (supra) we allow this appeal, set aside the impugned order of the trial Court and of the High Court, the result of which would be that the application for impleadment filed by the Union of India will stand allowed. The State of Punjab will pay the costs to these proceedings to the Union of India."

In terms of the order of the Hon''ble Supreme Court, quoted above, the application filed by the Union of India for impleadment before the learned Additional District Judge in the proceedings u/s 18 of the Act stands allowed.

3. Thus, the proceedings in the normal course would have been remanded for adjudication afresh in accordance with law upon the impleadment of the Union of India as party to the reference, however, vide order dated 12th October, 1999, Hon''ble Mr. Justice V.K. Bali had made an effort to determine if the master could be decided without remanding the same to the reference Court. His Lordship had directed the Union of India to explain what evidence would they like to adduce in support of their case. Today i.e. 13.12.1999 when the matter was listed, learned counsel appearing for the Union of India contended that the Union of India has to produce number of registered sale deeds, the photo copies of some of which have also been produced before this Court to prove the fair market value of the acquired land at the relevant time. He further contended that in accordance with the law settled by the Hon''ble Supreme Court of India in the cases A.P. State Road Transport Corporation, Hyderabad Vs. P. Venkaiah and others, and Special Deputy Collector and another etc. Vs. Kurra Sambasiva Rao and others, etc., , he

has to produce the vendee(s) and vendor(s) to prove the said sale deeds. He further contended that they have to cross-examine the claimants as well as the witnesses produced by them in order to scrutinise the authenticity of the sale instances proved by the claimants as well as in relation to the location and potentially of the land in question.

4. Learned counsel appearing for the claimants, while relying upon 1992(3) SCC 40, Prem Raj v. Union of India , contended that such references should be decided expeditiously and specific direction should be issued in that regard.

5. I have heard learned counsel for the parties. I am of the considered view that the present case is not one which can be decided by this Court in exercise of its appellate jurisdiction nor would it be proper for this Court to call for a report from the learned Additional District Judge. This is so primarily for the reasons the determination arrived at, of the matter in issue would have to be set at naught and the judgment as a whole would have to be set aside. This would be the necessary corollary to the judgment of the Hon''ble Apex Court, referred to above. Furthermore, the stand taken by the learned counsel appearing of the Union of India appears to be not only just but fully supported by law. There is definite onus upon the parties, which they are required to discharge in relation to. basic ingredients, which would ultimately determine the compensation payable to the claimants.

6. It is conceded before this court that the impugned judgment in any case would have to be set aside.

7. Resultantly, the impugned judgment of the learned Additional District Judge, Bathinda dated 7.5.1998 is hereby set aside. The reference is remanded to the said Court for its disposal in accordance with law in the light of following directions:-

(i) The learned Court shall permit the Union of India to cross examine the witnesses who are opted to be cross-examined by the Union of India, by filling the list within one week from the date of hearing fixed before the Court.

(ii) The Court would also permit the Union of India to lead its own evidence and tender documents on record.

(iii) It will not be necessary for the Court to direct examination-in-Chief of the witnesses, who have already been examined and cross-examined by the State of Punjab.

(iv) As the matter is being remanded without pronouncement of the controversy on the merits and in furtherance to the directions of the Hon''ble Supreme Court of India, the claimants would be entitled to apply for refund of Court fee appended on the memorandum of appeal herein in accordance with law.

(v) The learned trial Court is requested to endure its best to complete the proceedings and pronounce the award as expeditiously as possible, preferably

within one year from the date on which certified copy of this order is placed on the record of the trial Court; and

(vi) The parties are directed to appear before the learned trial Court on 2.3.2000. As a result of the above discussion, the judgments under appeals are set aside. The learned trial Court shall proceed with the matter in accordance with law and keeping in mind the directions contained in this order. However, the parties are left to bear their own costs.

8. The trial Court records of all these cases shall be sent to the concerned Courts by the Registry forthwith.

9. Registry shall ensure, that a copy of this order is also placed on each file which will be transmitted to the learned trial Court.

Copy of this order be also given dasti, to the counsel for the parties.