

(1995) 09 AHC CK 0150
In the Allahabad High Court
Case No : C.R. No. 401 of 1995

Uttar Pradesh Avas Evam Vika Parishad	APPELLANT
Vs	
Laxmi Chandra Paul and Another	RESPONDENT

Date of Decision : 05-09-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1995) 09 AHC CK 0150

Hon'ble Judges : N.L. Ganguly, J

Bench : Single Bench

Advocate : P.K. Singhal, for the Appellant;

Final Decision : Dismissed

Judgement

N.L. Ganguly, J.—This civil revision is directed against an order dated 27.4.95 passed by the Addl. District Judge, Dehradun. The controversy in the present case is that in the land acquisition proceedings, some compensation was given to the opposite party No. 1. He was not satisfied. He made request by filing an application to the Collector for making a reference u/s 18 of the Land Acquisition Act. The Collector had not taken steps for making reference. Ultimately, the opposite party No. 1 since had no other remedy available to him, filed a civil suit for mandatory injunction directing the Collector to make a reference u/s 18 of the Land Acquisition Act. The suit was decreed and the relief of mandamus as claimed was granted. In spite of the said decree granted in favour of the opposite party No. 1 the Collector had not made any reference to the civil court, as contemplated u/s 18 of the Act. The opposite party No. 1 moved the court which had passed the decree for mandatory injunction directing the Collector to make a reference u/s 18 of the Act. Since the Collector had not complied with the decree, the learned Civil Judge himself made a reference to the District Judge u/s 18 of the Act.

2. Learned Counsel for the applicant Uttar Pradesh Avas Evam Vikas Parishad submitted that it was wholly incompetent for the Civil Judge to make a reference

u/s 18 of the Act. He was not legally competent to make such a reference. Learned Counsel submitted that it is only the Collector who is competent Under the Land Acquisition Act to make a reference u/s 18 of the Act. The learned Counsel submitted that the manner in which the Civil Judge had made a reference is wholly misconceived in making both I he submissions. The person whose land has been acquired and is aggrieved by the same is not competent to file any civil suit for enhancement of the compensation. This is settled position of law. The opposite party No. 1 legally and correctly filed the suit for mandatory injunction directing the Collector to make reference u/s 18 of the Act. The said suit was decreed, as claimed by the opposite party. It was for the Collector to have obeyed and complied with the decree of the civil court and should have made a reference. Since, he had not made a reference, the opposite party No. 1 sought for execution of the decree and the learned Civil Judge himself passed an order in execution of the decree passed by him making a reference to the District Judge u/s 18 of the Act. Learned Counsel for the applicant submits that this was no proper procedure adopted by the Civil Judge. The learned Counsel submits that the remedy Under the CPC was to take legal action against the Collector for non-compliance of the decree. He suggested that the Collector should have been sent for prison or his property could have been attached. This is no solution and is not doing justice in this case. The person whose property was acquired was seeking a relief for reference before the District Judge and by taking the recourse, as suggested by the learned Counsel, he was not to gain in any manner. The learned Civil Judge was perfectly Justified In making reference himself as execution court.

3. After hearing the learned Counsel for the applicant, I do not find any jurisdictional error or error of law.

The revision is dismissed summarily.