
(1989) 05 P&H CK 0067

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 6490 of 1686

Vijay Pal Singh

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 02-05-1989

Acts Referred:

Citation : (1989) PLJ 422 : (1989) 2 RRR 229

Hon'ble Judges : J.V.Gupta, J

Advocate : M.L. Saini, Advocate, G.C. Garg, Sr. Advocate,, Advocates for appearing Parties

Judgement

J.V. Gupta, J.

1. The order will also dispose of Civil Writ Petition No. 2788 of 1987 as the question involved is common in both the cases.

2. Total land measuring 154 Kanals 19 Marlas was acquired under notification under section 4 of the Land Acquisition Act, 1984 (hereinafter referred to as 'the Act'), dated October 13, 1983 for the construction of New Grain Market, Staff Quarters, Rest House, Gadda Shed etc., for the Market Committee, Rewari. Notification under section 6 of the Act was issued on October 13, 1986. Petitioner Vijay Pal Singh whose land measuring 1 Kanal was acquired out of the total land acquired, filed the present writ petition dated November 26, 1986 challenging the said notifications Annexures P1 and P2. At the time of motion hearing on 24.2.1987, counsel for the respondent stated that the petitioner shall not be dispossessed till further orders. The notifications were challenged on the ground that the same were illegal, mala fide, against law, and that the second notification under section 6 was issued after more than three years of the first notification under section 4 of the Act.

3. Similarly, Dr. Om Parkash Saini, whose land measuring 4 Kanals was included in the acquired land filed Writ Petition No. 2788 of 1987. The same was admitted and was to be heard with C.W.P. No. 6490 of 1986. However, there was no stay

order in that writ petition.

4. On the last date of hearing i.e. April 7, 1989, learned counsel for the petitioners stated that no award has been given upto now and, therefore, in view of section 11A of the Act entire proceedings for the acquisition of the land stand elapsed. The petitioner was directed to file an affidavit to this effect. However, affidavit of Shri Narinder Singh Saini, Executive Officer cum Secretary, Market Committee, Rewari, dated April 20, 1989 has been filed in this Court in which it is admitted that the award by the Land Acquisition Collector has not been announced till now with regard to the acquired land. In these circumstances, the only question to be determined in this petition is as to what is the effect of not announcing any award within two years from the date of publication of the declaration.

5. Section 11A of the Act reads as under :

"11A. Period within which an award shall be made. The Collector shall make an award under Section 11 within a period of two years from the date of the publication and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse :

Provided that in a case where that said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation. In computing the period of two years referred to in this section the period during which any action or proceedings to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded."

6. It may be stated at the outset that the explanation is not attracted in the present case because there was no stay order by this Court staying the proceedings. As a matter of fact, no stay order was passed in C.W.P. No. 2787 of 1987. Stay order, if any, passed in C.W.P. No. 6490 of 1986 was only to the effect that the counsel for the respondent stated that the petitioner shall not be dispossessed till further orders. That being so, there was nothing in the way of the respondents to make the award within two years from the date of the publication of the declaration under section 6 of the Act i.e. dated October 13, 1985. Obviously, this objection could not be taken at the time of the filing of the writ petition as by that time two years period had not elapsed. This objection was raised when the case came up for final hearing and by the time the period of two years had elapsed. Since it is admitted that no award has been given up till today, the entire proceedings for the acquisition of the land stand lapsed in view of the provisions of the section 11A of the Act reproduced above.

7. Consequently, both the petitions succeed and are allowed. Notifications under section 4 of the Act, dated October 13, 1983 and under section 6 of the Act, dated October 13, 1986, are quashed. However, there will be no order as to costs.

Petitions accepted.