
(1980) 11 AHC CK 0026
In the Allahabad High Court
Case No : Civil Revision No. 66 of 1980

Zameer Ahmad and Others APPELLANT
Vs
State of U.P. RESPONDENT

Date of Decision : 21-11-1980

Acts Referred:

Land Acquisition Act, 1894 — Section 18(1), 20, 53

Citation : AIR 1981 All 92

Hon'ble Judges : B.N. Sapru, J

Bench : Single Bench

Advocate : S.C. Asthana, for the Appellant;

Final Decision : Dismissed

Judgement

B.N. Sapru, J.—Land belonging to the applicants was acquired under the provisions of the U. P. Land Acquisition Act. They made an application to the Collector u/s 18(1) of the Act under which they prayed that the matter be referred by the Collector to the Court for its determination. The Collector, thereupon, made a reference u/s 19(1) of the Land Acquisition Act to the Court. After considerable delay, the applicant made an application to the court for an amendment. By the amendment, the applicant wanted to state that he was a Sirdar to the extent of 2/3rd and the area acquired was 64 bighas 11 biswas and he wanted an additional amount of Rs. 58,689 as compensation instead of Rs. 34,430.

2. The Addl. District Judge rejected the application on two grounds: (1) as the Judge was doubtful whether the court had any power to amend the reference made by the Collector and (2) that the application for amendment was very belated and no proper explanation for the delay in seeking the amendment had been given.

3. The reference to the court and the procedure thereto is provided in Chapter III of the Land Acquisition Act. u/s 18(1) any person interested, who has not

accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested. Sub-section (2) requires that the applicant submitting an application u/s 18(1) shall state in the objection the grounds on which he is objecting to the award.

4. Section 20 of the Land Acquisition Act provides that after the Collector has made a reference as provided for u/s 19(1) of the Act, the court will proceed to determine the objection after notice to all concerned. Thus, it is the objection filed u/s 18(1) of the Act, which is really decided by the court in proceedings u/s 20 of the Land Acquisition Act.

5. Section 53 of the Land Acquisition Act makes the CPC applicable to all proceedings before the court under the Land Acquisition Act except in so far as there may be something inconsistent with the provisions of the Land Acquisition Act.

6. u/s 53 of the Land Acquisition Act, the power to amend the pleadings would also be there.

7. There appears to be no reason why the applicant should be prohibited from amending the objection filed u/s 18(1). There may be a clerical or other error in the application and if it is held that no error can be corrected, it may lead to great hardship.

8. The Delhi High Court in *R. P. Conduit Manufacturing Co. v. The Union of India* (ILR (1978) 1 513) has taken the view that the provisions of Order 6, Rule 17 apply to proceedings u/s 20 of the Land Acquisition Act and the applicant is at liberty to seek amendment of application for reference. The Delhi High Court has said that the amendment cannot change the nature of the case. But it is general law that the plaintiff cannot by amendment make out altogether a new case.

9. Of course, the court cannot touch the order of the Collector making a reference but the objection filed u/s 18(1) is the objection filed by the person whose land is acquired. There does not seem to be anything in the Land Acquisition Act to prohibit the person making an application u/s 18(1) of the Act from making corrections in it at any subsequent stage. It is, therefore, clear that the applicant could correct the objection filed by the applicants u/s 18(1) of the Act.

10. As far as the delay is concerned, I am of the view that the delay on the part of the applicants to apply for amendment has caused no prejudice on the part of the State. The court below exercised the jurisdiction improperly in refusing to allow the amendment on the ground that it was sought at a very late stage.

11. In the result, I allow this application and set aside the order of the court below and direct that the applicants be permitted to correct the application filed

by them u/s 18(1) of the Land Acquisition Act. There will be no order as to costs.
The Stay Order is vacated.