

(1993) 10 P&H CK 0005

High Court Of Punjab And Haryana At Chandigarh

Case No: L.P.A. No. 31 of 1990

Hissar Improvement
Trust

APPELLANT

Vs

The President,
Tribunal
Improvement, Trust
and Others

RESPONDENT

Date of Decision: Oct. 20, 1993

Acts Referred:

- Land Acquisition Act, 1894 - Section 18(1)

Citation: (1994) 106 PLR 226

Hon'ble Judges: S.D. Agarwala, C.J; S.S. Sodhi, J; R.S. Mongia, J; N.K. Sodhi, J; N.C. Jain, J

Bench: Full Bench

Advocate: Mohinderjit Singh Sethi and C.B. Goel, for the Appellant; M.L. Sarin Alka Sarin and Shailender Jain, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

S.D. Agarwala, C.J.

One of the questions involved in this appeal is as to whether the Improvement Trust has the locus standi to file a writ

petition challenging the award of the tribunal given under the Punjab Improvement Trusts Act, and further as to whether the Improvement Trust is

competent to file a Letters Patent Appeal. The decision of this question depends upon the interpretation of the words ""person interested"", used in

Section 18(1) of the Land Acquisition Act, 1894 which reads as follows:-

18. Reference to Court.--(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.

2. On 10th of September, 1990, a Division Bench of this Court was of the opinion that since the matter was of importance and is arising in many

cases and is likely to arise in future also, it was thought fit by the Bench that this question be decided by a Full Bench. The Bench directed that the

Full Bench be constituted and the case be heard by the said Full Bench.

3. The Full Bench of three Judges was constituted. The Full Bench of three Judges by its order dated November 28, 1990, referred the matter to a

Larger Bench of five Judges. The order passed by the Full Bench of three Judges was as follows:-

After hearing the learned counsel for the parties, we are of the view that the earlier Full Bench judgments of this Court reported in 1981 PLR 335

and 1983 PLR 768 require reconsideration and therefore, this case is referred to a Larger Bench of five Judges. The necessary Bench be

constituted and the case be fixed for arguments on 3.12.1990.

4. The Full Bench of five Judges heard this case on February 5, 1991 and by an order of the said date, directed that since the Supreme Court is

already seized of the matter and the controversy that has arisen is founded mainly upon the conflicting judgments of the Court, it considered

appropriate to refrain from expressing any opinion on the issue and instead to await the decision of the Supreme Court.

5. The question involved in the present reference to the Full Bench of five Judges has now been decided by the Hon"ble Supreme Court in Union

of India v. Sher Singh (1994) 106 P.L.R. (sic). The Hon"ble Supreme Court in this case has considered the three earlier judgments of the Hon"ble

Supreme Court in Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel 1971(3) S.C.C. 8211 Himalaya Tiles and

Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR"s., as also in Neelagangabai and another Vs. State of Karnataka and others, , and

thereafter came to the conclusion that there was no necessity of referring the case to a Larger Bench of the Supreme Court. After examining the

various case law on the subject, the Hon"ble Supreme Court has found that the definition of "person interested" in Section 18 of the Land

Acquisition Act, 1894 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 an agreement to pay the compensation. While laying down the above law, the Hon"ble Supreme Court specifically overruled

the two Full Bench decisions of this Court in Indo Swiss Time Ltd., Dundahera v. Umrao and Ors. (1981) 83 PLR 335 (F.B.) and Kulbhushan

Kumar & Co. v. State of Punjab (1983) 85 PLR 768 (F.B.).

6. The only question which has been referred to this Full Bench of five Judges is as to whether the cases of Indo Swiss Time Ltd. (supra) and

Kulbhushan Kumar & Co. (supra) require reconsideration. The Supreme Court in Union of India v. Sher Singh's case (supra) has specifically

overruled both the abovementioned Full Bench decisions of this Court and upheld the view laid down by the Hon"ble Supreme Court in Himalaya

Tiles and Marbles's case (supra).

7. Shri M.L. Sarin, Senior Advocate, learned counsel for the respondents has tried to urge other questions which according to him arise in the

case. We refrain from deciding these questions as the reference has been made only in regard to the correctness of the two decisions of this Court

in Indo Swiss Time Ltd. (supra) and Kulbhushan Kumar & Co. (supra). These questions, if they at all arise, can be urged before the Full Bench of

three Judges of this Court when the matter is remanded to the said Bench.

8. For the reasons given above and in view of the decision of the Hon"ble Supreme Court in the case of Union of India v. Sher Singh (supra), both

the Full Bench decisions of this Court reported in 1981 PLR 335 and 1983 PLR 768 are hereby overruled. The reference is answered

accordingly. The papers of the case will now be placed before the Full Bench of three Judges for the hearing of the appeal.