

(1990) 01 P&H CK 0004

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 1327 of 1988

Smt. Satya Dhir and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Jan. 19, 1990

Acts Referred:

- Constitution of India, 1950 - Article 226, 227
- Land Acquisition Act, 1894 - Section 4, 6, 9, 9(3)

Citation: (1990) 98 PLR 39

Hon'ble Judges: Amrit Lal Bahri, J

Bench: Single Bench

Advocate: Ashok Bhan and A.K. Mittal, for the Appellant; H.S. Bedi, A.G. for Respondent Nos. 1 and 2 and G.B.S. Sodhi and A.L. Bahl, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A.L. Bahri, J.

Challenge in ibis writ petition is to the acquisition of land situated in villages Basti Bhawa Khel, Waniaana, Katulpur Basti, Pir Dad Khan and Basti Danushmandan, tehsil and district Jullundhur, which was acquired for passage for the site for Leather Complex vide notifications, copies Annexures P 1 and 2, issued under Sections 4 and 6 of the Land Acquisition Act on March 27, 1985 and August 12, 1985 respectively. The challenge is also to the award, announced by the Land Acquisition Collector, dated August 14, 1987 fixing compensation for the acquired land. Smt. Satya Dhir and others claimed to be owners of different portions of the acquired land. The husband of Smt. Satya Dhir, namely Shadi Lal, constructed a factory on portion of the acquired land which belonged to his wife Smt. Satya Dhir. The factory is known as Himachal Petro-Chemical, Kapurthala Road, Jullundhur. The other petitioners also claimed to be owners of different portion for the acquired land. The allegation in the

petition is that the petitioners were not individually served with notices u/s 9 of the Act and hence notifications as well as the award of the Collector in respect of acquisition of land are vitiated. The stand of the State in the written statement is that notifications, Annexures P.1 and P.2, were published in the Gazette and such notifications were also published in the newspapers as required under the law. Notices u/s 9 were given to several landowners whose names appeared in (the revenue record as such. It was admitted that Smt. Satya Dhir petitioner was owner of portion of the acquired land. It was stated that notice to her was issued. With respect to other petitioners, it was stated that their names did not appear in the revenue record at the relevant time as owners. Since the land was acquired for Punjab State Leather Development Corporation, who was made respondent No. 3, a separate written statement was filed on its behalf taking up similar pleas as were taken by the State and further stating that it had spent huge amount for development of the project and is paying more than Rs. 7,000/- per day as interest on the loan taken. Much of the compensation awarded by the Collector has already been disbursed and it would operate grave injustice if the acquisition proceedings are quashed.

2. During the pendency of the writ petition, as ordered by the Court, the records of the acquisition proceedings were obtained and the petitioners were required to file additional affidavit with respect to service of notice u/s 9 of the Act. Thus, additional affidavit was filed after inspection of the records that notice was issued to Smt. Satya Dhir petitioner but it was not personally served. As per report, she was living in town and the notice was pasted on a tree. Reply to this affidavit was filed on behalf of the Corporation that such notices were served on several owners of the land who presented their case before the Land Acquisition Collector when the award was finally announced.

3. Learned counsel for the petitioners has argued that it was incumbent upon the authorities to serve personally at least Smt. Satya Dhir petitioner with notice u/s 9(3) of the Act and on failure to do so, the award of the Collector qua her should be held to be vitiated. In support of this contention, reliance has been placed on the decision of this Court in *Rajinderjit and Ors. v. State of Punjab and Anr.* (1987) 91 P.L.R. 658. This judgment no doubt helps the petitioner. However, ratio of the decision cannot be applied to the case in hand in view of Full Bench decision of this Court in *State of Punjab v. Lt. Col Gurdial Singh Anr.* (1983) 85 P.L.R. 718. This Full Bench decision was not brought to the notice of the Hon'ble Judge who decided the case of *Rajinderjit* referred to above. The Full Bench after referring to the case law on the subject decided as under :--

"The special notice u/s 9(3) of the Act is only a reflection or a copy of the public notice issued under Sub-section (1). Consequently, the special notices are merely an additional or ancillary mode of service to the primary provision of public notice, the contents whereof are provided for and prescribed in Sub-sections (1) and (2) Section

9(3) provides for service on persons known or believe to be interested and obviously there is no, and indeed cannot be, any mandate to serve persons who are neither known nor believed to be so by the Collector, though in actual fact they may be directly and primarily interested in the compensation. Consequently, in such a situation, despite the absence of service of a special notice on such persons, including even the actual owners, the proceedings would not be violative of Section 9(3) and, therefore, plainly valid. However, this is not to be mis-understood as implying the provisions of Section 9(3) are to be honoured in breach. The command of the legislature must be observed, any wilful or fraudulent omission to evade the same would obviously have serious consequences. However, it seems to be a far cry from this to go on to hold that merely because one or the, other of innumerable persons interested in the compensation have not been individually and personally served, then the whole or part of the award would be rendered void as also the subsequent proceedings thereto would be vitiated."

4. In view of the fact that necessary notifications under Sections 4 and 6 of the Act were published in the Gazette and also in different newspapers as required under the law, the same are held to be valid. Since publication of the notifications in the Gazette amounted to notice to all, further notices u/s 9 of the Act were supplementary in nature and non service of the same on one of the owners will not make the proceedings or the award made by the Collector as illegal. Furthermore, in the present case, effort was made to serve Smt. Satya Dhir, who was not found on the acquired land and thus pasting of the notice near the acquired land would be deemed to be proper service on her.

5. Learned counsel for the petitioners has further argued that alternative passage as shown in the plan attached with the writ petition may be considered and land beneath it may be ordered to be acquired for the purpose. This contention cannot be accepted for the simple reason that major portion of the value fixed for the acquired land has already been disbursed to other land owners and alignment of the passage cannot be changed by revoking the acquisition proceedings.

6. Finding no writ in the writ petition, the same is dismissed. There will be no order as to costs.