

(1988) 05 P&H CK 0014

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3354 of 1986

Mohinder Singh

APPELLANT

Vs

Shri Uttam Singh and others

RESPONDENT

Date of Decision: May 20, 1988

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: Amrit Lal Bahri, J

Bench: Single Bench

Advocate: Lakhinder Singh, for the Appellant; Y.P. Khullar for A.G. Pb., for the Respondent

Final Decision: Allowed

Judgement

A.L. Bahri, J.

Vide this petition filed under Article 227 of the Constitution of India, Mohinder Singh petitioner prays for quashing of orders, Annexures P.1 and P.2 passed by the Land Acquisition Collector, S.Y.L., Patiala. Mohinder Singh obtained a decree from the Court of Sub Judge, Kharar on September 9, 1982 that the land allotted in Village Rora was ancestral property and his father Uttam Singh, respondent No. 1, could not alienate the same. In appeal, on the understanding given by Uttam Singh that he will not alienate the land measuring 11 Killas, which was in cultivating possession of Mohinder Singh and that Mohinder Singh will not interfere with the possession of Uttam Singh in another land, the suit was dismissed as withdrawn. Out of aforesaid 11 Killas of land, 2 3/4 Killas of land comprising in Khasra Nos. 25/12, 19, 22/1 were acquired on September 18, 1985 for S.Y.L. Canal. On March 15, 1986, an application was filed by Mohinder Singh before the Land Acquisition Collector praying for the compensation of the land acquired to be paid to him or in the alternative to refer the dispute to the District Judge. The Land Acquisition Collector passed orders, Annexures P. 1 and P. 2, first granting 2/3rd of compensation and thereafter the remaining 1/3rd compensation to Uttam Singh. These are two orders under challenge. Notice of the petition was given to the respondents. Nobody has put in

appearance on behalf of Uttam Singh and Sukhvinder Singh son of Uttam Singh. The Land Acquisition Collector is represented. I have heard learned counsel for the parties.

2. Shri Lakhinder Singh, learned counsel for the petitioner, during the arguments produced copy of the application which was moved by Mohinder Singh before the Land Acquisition Collector and is dated March 15, 1986. His contention is that the dispute having been raised to the amount of compensation to be fixed in the award to be made by the Land Acquisition Collector and its disbursement, it was incumbent upon the Land Acquisition Collector to make a reference u/s 30 of the Land Acquisition Act to the District Judge. The Land Acquisition Collector was not competent to decide the objections/application summarily as has been done vide orders, Annexures P.1 and P.2. I have given due consideration to this argument and I find merit therein. Vide order, Annexure P.1, the Land Acquisition Collector prima facie coming to the conclusion that Mohinder Singh at the most could dispute compensation to the extent of 1/3rd of the land acquired ordered that 2/3rd of the compensation be paid to Uttam Singh and adjourned the proceedings to May 22, 1986. On that day Mohinder Singh did not put in appearance nor he produced any evidence. Thus he ordered that remaining 1/3rd of the compensation be paid to Uttam Singh who was recorded in the Jamabandi as being in cultivating possession of the land acquired. When the application was filed, the Land Acquisition Collector had not announced the award determining compensation for the land acquired which was done on 19th March, 1986 (Award No. 69/R-SYL). No doubt, when the application was filed by Mohinder Singh, the award had not been announced. However, it is clear that at the time the award was announced, application of Mohinder Singh was already before the Land Acquisition Collector wherein a claim was made to the compensation for the acquired land by disbursement or in the alternative to refer the case to the District Judge for determination. Section 30 of the Land Acquisition Act reads as under:-

30. Dispute as to apportionment. When the amount of compensation has been settled u/s 11, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

3. A bare perusal of the aforesaid provision would reveal that when amount of compensation has been settled and a dispute arises as to the apportionment, the Collector is to refer such a dispute to the decision of the Court. This course was not adopted by the Land Acquisition Collector on the simple ground that on the adjourned date of hearing, i.e. May 22, 1986, Mohinder Singh did not put in appearance nor he led any evidence. As a matter of fact, Land Acquisition Collector was not called upon to determine the dispute between the persons claiming apportionment of the compensation for the land acquired. It was incumbent upon him to refer the dispute to the Court. Thus quashing the orders, Annexures P. 1 and

P. 2, a direction is given to the Land Acquisition Collector to make a reference u/s 30 of the Land Acquisition Act to the Court. The revision petition is accordingly allowed. There will be no order as to costs in this petition.