Davinder Singh and others Vs State of Punjab and others

Civil Writ Petition No. 29 of 2000

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 12, 2000

Acts Referred:
Land Acquisition Act, 1894 â€" Section 18

Citation: (2000) 4 RCR(Civil) 701

Hon'ble Judges: K.S. Garewal, J; Jawahar Lal Gupta, J

Bench: Division Bench

Advocate: R.K. Girdhar, for the Appellant; Cham Tuli, D.A.G., for the Respondent

Judgement

Jawahar Lal Gupta, J.

1.The Petitioners are land owner of village Dhanewala. Their land was acquired vide notification dated July 9, 1997.

Thereafter, they were paid compensation according to their respective shares. The Petitioners complain that the compensation given to them was

not in conformity with the agreement which had been arrived at between the land owners and the authorities prior to the issue of the notification on

June 3, 1998. They pray for the issue of a writ in the nature of mandamus directing the Respondents ""to make payment of compensation at the

rates fixed by them vide meeting dated 3.6.1997.....

2. A written statement has been filed on behalf of the Respondents. It has been inter alia averred that 24 Kanals and 18 Marias of land belonging

to the Petitioners was acquired for the purpose of constructing a drain. Compensation according to the respective shares of the Petitioners has

been paid at the rates determined by the Draft Award (a copy of which has been produced as Annexure R-l/T). It has also been averred that the

Draft Award has been approved by the State Government.

3. Mr. Girdhar, learned Counsel for the Petitioners contends that the land owners had agreed to the acquisition of the land only on the

understanding that they would be paid compensation in conformity with the decision taken on June 3, 1997. The meeting was attended, amongst

others, by Mr. Sukhbir Singh Badal, the Member Parliament and the Financial Commissioner (Revenue) Punjab. On the other hand Ms. Chavu

Tuli, appearing for the Respondents submits that the land owners can claim compensation only in accordance with law and that if they were not

satisfied they could have sought reference u/s 18 of the Land Acquisition Act, 1894,

4. Admittedly, the land of the Petitioners was ordered to be acquired vide notification dated July 9, 1997. The provisions of Section 17 had been

invoked. Under the law it was incumbent upon the Respondents to ""tender payment of 80% of the compensation.... to the persons interested....".

Still further, the competent authority had to make an award after giving notice to the interested persons.

5. A land owner is entitled to payment of compensation determined in accordance with the provisions of law. Not merely by an agreement. Such a

course shall be contrary to the statute. When something is required to be done in a particular way, it must be done in that way and no other. The

tax payer''s money is in trust with the authority. It can be spent only in the manner permitted by law.

6. In the present case there is nothing on record to indicate that the rates mentioned in the agreement represent the prevalent market value at the

relevant time. In this situation, we consider it appropriate to relegate the Petitioners to seek their remedy under the Land Acquisition Act, 1894.

7. Even though G.S. Sihota, the Executive Engineer, who has filed the affidavit on behalf of the Respondents and Bhag Singh, Sub Divisional

Officer, are present, they are not aware of the facts of the case. Despite Ms, Charu Tuli, having repeatedly asked them about the date etc. of the

award and other relevant information, they have not been able to assist at all.

8. Taking the totality of the circumstances into considerations consider it appropriate to direct that the Respondents shall furnish copy of the award,

if any, to the Petitioners within one month from today. If the copy of the award is given to the Petitioners, they would be entitled to seek a

reference under the Act before the appropriate Court in accordance with law. Their claim for compensation shall be determined by the Courts on

the basis of the evidence that may be adduced by the parties. In case, the Petitioners are not provided with any award, the competent authority

shall announce the award. Thereafter, the Petitioner shall be at liberty to seek their remedy in accordance with law.

9. No other point has been raised.

10. The writ petition is accordingly disposed of. No costs.

Sd/-K.S. Garewal, J.