

(1981) 07 P&H CK 0001

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular First Appeal No. 57 of 1970

Gram Panchayat Sabha Dhade

APPELLANT

Vs

Mahant Pritam Singh

RESPONDENT

Date of Decision: July 29, 1981

Acts Referred:

- Land Acquisition Act, 1894 - Section 11, 30, 4

Citation: (1981) 3 ILR (P&H) 646

Hon'ble Judges: Ajit Singh Bains, J

Bench: Single Bench

Advocate: H.L. Sarin, M.L. Sarin and R.L. Sarin, for the Appellant; A.N. Mittal, for the Respondent

Final Decision: Allowed

Judgement

Ajit Singh Bains, J.

The land in dispute at village Dhade had been acquired by the State for the construction of a link road from Balianwali to Rampura. Notification u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act) was issued for the acquisition of the land in dispute on 20th January, 1965. Award for compensation was given by the Collector on 23rd July, 1966. However, the dispute arose with regard to the payment of compensation amounting to Rs. 2,565.42 in relation to 7 Kanals 3 Marias of land comprised in Khasra Nos. 592/1/1, 593/2, 597/2 and 598/1. One of the claimants to the compensation is Pritam Singh Respondent who claimed the compensation on the ground that he is the Dholidar of the land in dispute which was acquired. The other claimant is the Appellant Gram Panchayat of the village. The reference was made by the Collector u/s 30 of the Act to the District Judge.

2. The case set up by the Dholidar Pritam Singh is that he was the chela of the original Dholidar Kishan Singh and after his death he became the owner of the land in question which was in his possession for long and that the land was wrongly

recorded in the name of the Appellant Gram Panchayat. The Gram Panchayat controverted the allegations and the parties contested on the following issues:

(i) Whether Pritam Singh Petitioner is the Dholidar of the land in suit and is entitled to get the compensation amount of the acquired land in dispute? O.P.

(ii) Whether the Respondent Gram Panchayat, village Dhade is the owner of the acquired land in dispute and is entitled to get the compensation amount for the same? O.R.

(iii) Relief.

The learned District Judge decided issue No. 1 in favour of the Respondent and held that he was the Dholidar of the land in dispute and was, therefore, entitled to the compensation amount in question. Issue No 2 was also decided in his favour and it was held that the Gram Panchayat was not the owner of the land in dispute and thus, is not entitled to the claim. Hence this appeal by the Gram Panchayat.

3. The only issue which now survives for determination is issue No. 2 as it is conceded in all fairness by the learned Counsel for the Appellant that the finding of the District Judge on issue No. 1 that the Respondent is a Dholidar may be affirmed. In support of his contention that the Gram Panchayat is the owner of the acquired land, Mr. M.L. Sarin placed reliance on Har Nand alias Hanoo v. The Commissioner Ambala Division and Ors. 1971 PLJ 539 and Bharat Dass Chela Narotam Dass Chela Mathura Dass v. Gram Sabha village Jahajgarh and Ors. 1973 RLR 280, wherein it was held that any land held under a dohli tenure but described as shamilat deh on 9th of January, 1954, would vest in the Panchayat concerned. In view of the law laid down in these authorities, I am of the view that it is the Appellant Gram Panchayat which is entitled to the compensation being the owner of the land in dispute.

4. Mr. A.N. Mittal, learned Counsel for the Respondent Dholidar, however, submitted that even the tenants are entitled to some share or apportionment of the compensation in respect of the acquired land u/s 11 of the Act. There is no opposition to this plea by the learned Counsel for the Appellant. If the tenants are entitled to some apportionment of the compensation in respect of the acquired land, a Dholidar, in my view, stands on a better footing. In the result the findings of the trial Court on both the issues against the Appellant Gram Panchayat are reversed and it is held that the Appellant is the owner of the land in dispute. However, it will be entitled to 2/3rd share of the compensation whereas the remaining 1/3rd shall be the share of the Respondent Dholidar.

5. Consequently, the appeal is allowed partly as indicated above. It is directed that the amount of compensation be paid to the Appellant and the Respondent in terms of this judgment. No costs.