

(1988) 05 P&H CK 0017

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1489 of 1984

Sukhvinder Singh

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision: May 20, 1988

Acts Referred:

- Land Acquisition Act, 1894 - Section 18

Hon'ble Judges: Amrit Lal Bahri, J

Bench: Single Bench

Advocate: M.L. Sharma, for the Appellant; S.V. Rathi for A.G. Haryana, for the Respondent

Final Decision: Allowed

Judgement

A.L. Bahri, J.

In this petition filed under Article 227 of the Constitution, the petitioners pray for a direction to respondent No. 2, Land Acquisition Collector, to make reference u/s 18 of the Land Acquisition Act to the District Judge, by quashing his order dated April 17, 1984 (Annexure P.3).

2. Some land of the petitioners was acquired. The Land Acquisition Collector announced the award on May 11, 1983, Objections u/s 18 of the Land Acquisition Act were filed on October 17, 1983. However, vide Annexure P.3, the petitioners were communicated the order of the Land Acquisition Collector dated April 19, 1984 that the application was filed as time-barred. The case of the petitioners is that they were not present at the time of announcement of the award. No notice u/s 12 of the Land Acquisition Act was issued to them and thus their objection/application to make a reference u/s 18 of the Land Acquisition Act was within time and Land Acquisition Collector did not issue any notice to them before passing the impugned order. These allegations are supported by affidavit of Sukhvinder Singh, one of the petitioners. Although the respondents are represented, no reply to the petition has been filed controverting the allegations of the petitioners as referred to above. The

relevant records concerning the case have also not been produced. That being the position, the allegations levelled in the petition are taken as established.

3. Section 18 of the Land Acquisition Act reads as under:-

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) The application shall state the grounds on which objection to the award is taken;

Provided that every such application shall be made,-

(a) If the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector u/s 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

4. Since in the present case, the petitioners were not present or represented at the time the Land Acquisition Collector announced the award nor they were served with any notice u/s 12 of the Land Acquisition Act, in their case they could present the application u/s 18 of the Act within six months from the date of the Collector's award and the petition could not be dismissed as barred by time.

5. It has further been argued on behalf of the petitioners that the Land Acquisition Collector did not issue any notice before passing the impugned order dated April 16, 1984, as communicated to the petitioners vide Annexure P.3 dismissing the application as time-barred. There is force in this contention. J.V. Gupta J. in Civil Revision No. 1899 of 1983 Baldev Singh v. State of Haryana C.R. No. 1899 of 1983 relying upon the earlier decision of this Court in Suraj Mal v. State of Haryana 1985 P.L.J. 212 held that before deciding the reference application u/s 18 of the Land Acquisition Act, the claimants were entitled to a notice by the Collector. After holding as above a direction was given to the Land Acquisition Collector to make reference to the District judge concerned. The impugned order as communicated to the petitioners vide Annexure P.3 is also liable to be quashed on this ground as well.

6. For the reasons recorded above, this petition is accepted with costs which are assessed at Rs. 100/- Order, Annexure P.3, quashed. A Direction is given to the Land Acquisition Collector, Pachkula, respondent No. 2, to make today. The question of limitation, if any raised on behalf of the respondents will also be decided by the District Judge.