

(2006) 02 P&H CK 0044

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 2926 of 2003

Rikhi Ram

APPELLANT

Vs

Land Acquisition

Collector-cum-Sub Divisional

Magistrate and Others

RESPONDENT

Date of Decision: Feb. 2, 2006

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 4, 6

Citation: (2006) 144 PLR 253 : (2006) 3 RCR(Civil) 432

Hon'ble Judges: M.M. Kumar, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

M.M. Kumar, J.

The order of the Land Acquisition Collector, Muktsar dated 26.11.2002 is the subject matter of challenge in the instant petition, in which the afoermentioned order has been passed u/s 18 of the Land Acquisition Act, 1894, declining the prayer of the petitioner to forward his reference for enhancement of compensation in respect of the land to the learned District Judge. The solitary reason for refusing to make a reference to the learned District Judge given by the Collector in the impugned order is that the reference has been sought after the expiry of a period of six weeks as contemplated by Section 18 of the Act.

2. The land of the petitioner was acquired by the Land Acquisition Collector, after Notifications under Sections 4 and 6 were published on 25.6.1996, 12.7.1996 and 19.7.1996. Although, possession was taken in the year 1971, after the announcement of the award but the petitioner filed an application for seeking reference to the learned District Judge for enhancement of compensation, as

postulated by Section 18 of the Act. The aforementioned application has been declined on the sole plea that the application was required to be filed within a period of six weeks and therefore, it was not maintainable.

3. Learned Counsel for the petitioner as placed reliance on a Judgment of this Court in the case of Jagdish Chander v. The District Revenue Officer-cum-Land Acquisition Collector Works (Irrigation), Fatehabad (2001) 129 P.L.R. 805 and argued that rejection of application for reference u/s 18 of the Act on the ground of limitation would amount to adjudication, which would be entered into by the Land Acquisition Collector. According to the learned Counsel, the case of the petitioner is squarely covered by the view taken in Jagdish Chander's case (supra).

4. Mr. Verma, learned State counsel has not been able to controvert the arguments raised by the learned Counsel for the petitioner that the statutory period given in Section 18 of the Act has been complied with by the respondents and accordingly, the application for reference has been found to be delayed one.

5. After hearing learned Counsel for the parties, I am of the considered view that the order passed by the Land Acquisition Collector declining the application of the petitioner, to make a reference to the District Judge, is absolutely illegal and cannot be sustained in the eyes of law. The question of limitation is a question of fact and law and it cannot be decided by the Land Acquisition Collector, unless adjudication process is undertaken. The aforesaid adjudication can take place only before the learned District Judge, as has been held in Jagdish Chander's case (supra). Accordingly, order dated 26.11.2002 is liable to be quashed.

6. For the reasons aforementioned, the order dated 26.11.2002 is quashed. The Land Acquisition Collector, Muktsar is directed to make a reference to the District Judge in support of claim made by the petitioner without any further delay but within one month from the date of receipt of certified copy of his order.

Copy of the order be given dasti on payment of usual charges.