(1998) 120 PLR 354 : (1998) 4 RCR(Civil) 228

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 579 of 1992

Smt. Dayalo		APPELLANT
	Vs	
Land Acquisition Collector, Urban Development and Another		RESPONDENT

Date of Decision: July 15, 1998

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115
- Land Acquisition Act, 1894 - Section 18, 19, 20, 28A(2), 28A(3)

Citation: (1998) 120 PLR 354 : (1998) 4 RCR(Civil) 228

Hon'ble Judges: G.C. Garg, J

Bench: Single Bench

Advocate: Pritam Saini, for the Appellant; G.S. Grewal, A.G. and N.D.S. Mann, D.A.G., for the Respondent

Final Decision: Allowed

Judgement

G.C. Garg, J.
Land of the petitioner was acquired by issuing Notification under Sections 4 and 6 of the Land Acquisition Act (hereinafter referred to as the "Act") somewhere in the year 1972. The Land Acquisition Collector, thereafter, gave an Award. Some of the land owners, other than the petitioner, moved applications u/s 18 of the Act seeking enhancement of compensation. One such reference was answered by the Reference Court by order dated 17.12.1984. Provisions of the Act were amended by the Central Act 68 of 1984 in September, 1984.

2. Petitioner, keeping in view, the provisions of amending act, moved an application u/s 28-A of the Act seeking enhancement of compensation. Petitioner also attached with the application a photo copy of the order of the Reference Court. Meanwhile civil writ petition

No. 1361 of 1987 was filed by one Rattan Singh, joint applicant. A direction was issued by this Court, on 28.7.1987, to the Land Acquisition Collector to decide the application u/s 28-A within a month and parties were directed to appear before the Land Acquisition Collector. The Land Acquisition Collector dismissed the application by order dated 24.8.1987 on the ground that the application is incomplete for want of certified copy of the judgment. Petitioner thereafter moved an application u/s 28-A(3) of the Act on 5.10.1987. This application was ultimately decided by the Land Acquisition Collector by an order dated 13.8.1991. The Land Acquisition Collector while dismissing the application came to the conclusion that the application was not maintainable. Petitioner, thereafter challenged this order by filing civil writ petition No. 3629 of 1991. This writ petition was disposed of by a Division Bench of this Court by passing the following order :-

"Admittedly, the petitioner could seek alternative remedy seeking a relief u/s 18 of the Land Acquisition Act, as the necessary relief has been declined by the Collector u/s 28-A of the Land Acquisition Act as amended. It is not disputed that the respondent has declined to make reference which order is revisable u/s 115 of the Code of Civil Procedure, applicable as per the amended provisions of the Land Acquisition Act. Counsel for the respondent undertakes that the objection with respect to limitation in filing the revision petition shall not be raised, if the petitioner challenges the order of declining the reference u/s 18 of the Land Acquisition Act, in revision within 30 days from today."

3. Petitioner thereafter filed the present revision petition challenging the order of the land Acquisition Collector dated 13.8.1991 whereby the application filed by the petitioner u/s 28-A(3) of the Act was dismissed as not maintainable.

4. After hearing learned counsel for the parties and having regard to the facts of this case. I am of the opinion that this petition deserves to succeed. Sub-section 3 to Section 28-A of the Act provides that a person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that matter be referred by the Collector for the determination of the Court and the provisions of Sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference application u/s 18. The Land Acquisition Collector has not given any reason for declining the application or in coming to the conclusion that application filed u/s 28-A(3) of the Act was not maintainable. Mr. Maan learned D.A.G. has also not been able to refer to any material or provision of the Statute which may show that the application was not maintainable. In that view of the matter, revision petition is allowed and order under revision is set aside. The Land Acquisition Collector is directed to refer the application u/s 28-A(3) of the Act to the Reference Court in accordance with few within a period of 3 months from the date of receipt by him a copy of this order. No costs.