

Thakur Dwara, Village Sohana Vs Punjab State

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 8, 2000

Acts Referred: Constitution of India, 1950 " Article 226
Land Acquisition Act, 1894 " Section 4, 5A

Citation: (2001) 4 RCR(Civil) 768

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

Bench: Division Bench

Advocate: Thakur Kartar Singh, for the Appellant; Jaishree Thakur, for the Respondent

Final Decision: Dismissed

Judgement

Jawahar Lal Gupta, J.

The petitioner prays for the issue of a writ in the nature of Madamus directing the respondent authorities to exclude

land measuring 19 Kanals 18 Marlas from acquisition. The basis for this claim is that a Thakur Dwara (Temple) exists at the site. There is also

accommodation consisting of eight rooms on the ground floor and two rooms on the first floor for the residence of Sadhus.

2. The respondents contest the petitioner's claim. A written statement has been filed, It has been inter alia averred that the notification u/s 4 was

issued on November 12, 1992. The petitioner never filed any objection u/s 5-A of the Land Acquisition Act, 1894. Thereafter, the notification u/s

6 was issued on July 21, 1993. The award was announced on February 22, 1995. The amount of compensation was deposited on May 6, 1996.

The petitioner has filed the petition in May 1999 after the possession had already been taken.

3. Learned counsel for the parties have been heard.

4. Mr. Kartar Singh, learned counsel for the petitioner, submits that the respondents have not taken possession. There is a religious institution at the

site. Thus, the land belonging to the institution should be excluded from acquisition. On the other hand, Ms. Jaishree Thakur, learned counsel for

the respondents, submits that the petitioner had not raised any objection u/s 5-A of the Act. There was only a small structure existing on the land

which was acquired. The "Dera" does not come within the definition of a religious institution so as to warrant any exemption. She maintains that the

possession was taken on February 22, 1995. The amount was deposited with the District Judge vide Voucher No. 861 on May 6, 1996. In view

of these facts, she submits that there is no merit in this case.

5. Admittedly the notification u/s 4 of the Act was issued in November, 1992. The petitioner never raised any objection. Thereafter the award was

given. The petitioner still remained silent. The amount of compensation was finally deposited in Court in May 1996. The petitioner never

approached any Court of law. It was only on May 5, 1999 that the writ petition was filed in Court. There is an inordinately long delay.

6. Mr. Kartar Singh submits that the petitioner had submitted representations against the action of the respondents. Copies of three representations

have been produced as Annexures P-11, P-12 and P-13 with the writ petition. It is, undoubtedly, so. However, it is apparent that the earliest

representation was submitted on November 20, 1998. The other two representations are dated December 4, 1998 and March 4, 1999.

Admittedly, even the representations had been submitted more than three years after the award had been given by the Land Acquisition Collector,

Still further, in para 14 of the written statement it has been specifically averred that "no representation was ever received by the office of the

respondents". No replication has been filed to controvert this averment. It is, thus, clear that the representations have been put forth only as a false

explanation. In fact, no representation had been submitted.

7. Even otherwise, on merits, we find no ground to interfere. The action of the respondents does not violate any provisions of law. Nothing has

been produced on record to show that the petitioner is entitled to any exemption. In this situation, no ground for interference under Article 226 of

the Constitution is made out.

8. No other point has been raised.

9. We find no merit in the writ petition. It is, consequently, dismissed. However, the parties are left to bear their own costs.

10. Petition dismissed.