
(2012) 08 P&H CK 0261

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular First Appeal No. 2139 of 1992

Municipal Committee

APPELLANT

Vs

Ghasita

RESPONDENT

Date of Decision: Aug. 22, 2012

Acts Referred:

- Land Acquisition Act, 1894 - Section 30

Citation: (2012) 08 P&H CK 0261

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Arun Soni, for Mr. Arun Jain, for the Appellant;

Final Decision: Dismissed

Judgement

K. Kannan, J.

The appeal is at the instance of the Municipal Committee against the award of the Reference Court passed u/s 30 of the Land Acquisition Act. The rival claim had been made at the instance of present claimant to be a gair marushi tenant contending that the property had been periodically let out by Gram Panchayat at a chakota of Rs. 540/- per annum. The tenant was relying on the khasra girdawari from the year 1964 till the date when the property was acquired by the Government. The Municipal Committee was relying on some records Ex.R-3 to R-12 that showed several other persons than the appellant as the persons in possession of the property. The Reference Court held that these documents Ex.R-3 to R-12 seemed to have been prepared for the purpose of the case and placed reliance on the khasra girdawari only. Learned counsel for the appellant states that there could not have been lease of the property for more than two years at a time by the Gram Panchayat and therefore, the entries in khasra girdawari could not be true. While it could be a matter of fact and law that the property could not have been leased under the Act for two years, if the property was allowed to be in possession of the tenant after the initial lease and the tenant had continued in possession and was paying the rent at the same rate, the possession of such tenant cannot be termed to be unlawful

or illegal. This is another way of saying that the landlord had allowed the tenant to continue in possession of the property under the same terms after the initial period of lease. The cultivation account is the best method of assessing the actual possession of the property and if the khasra girdawaries referred to the possession of the tenant as a gair marushi tenant from the year 1964, the Reference Court was justified in preferring the entries found in the said documents to the documents, which were in the custody of the Municipal Committee and which could have been manipulated to suit their own needs. I have no reason to differ with the view taken by the Reference Court. Again the determination of compensation for the tenant in recognition of his right itself has been modest by apportioning only 25% of the total compensation determined for the property. There have been decisions of the Supreme Court, which have allowed for tenant's share as high as 75%. I do not, therefore, find any reason to differ with the award passed by the Reference Court.

2. The award is confirmed and the appeal is dismissed.