
(2000) 11 P&H CK 0255

High Court Of Punjab And Haryana At Chandigarh

Case No: Letters Patent Appeal No. 492 of 1992

Surat Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Nov. 20, 2000

Acts Referred:

- Land Acquisition Act, 1894 - Section 4, 6

Hon'ble Judges: A.B. Saharya, C.J; V.K. Bali, J

Bench: Division Bench

Advocate: Mr. Adarsh Jain, for the Appellant; Mr. C.R. Dahiya, DAG, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

V.K. Bali, J.

By this order, we propose to dispose of Letters Patent Appeal No. 492 of 1992 as also Civil Writ Petition No. 14063 of 1991 as common questions of law and fact are involved therein. Further, CWP No. 14063 of 1991 was ordered to be heard along with IPA aforesaid. The facts have, however, been extracted from LPA No. 492 of 1992.

2. Challenge to notifications dated March 22, 1990 and March 19, 1991 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 made by the appellants, failed before learned Single Judge as Civil Writ Petition No. 7657 of 1991 filed by them on that behalf came to be dismissed on December 3, 1991, thus, giving rise to present Letters Patent Appeal under Clause X of the Letters Patent.

3. Brief facts of the case reveal that land of appellants as also several other land owners, in all measuring 197.22 acres, came to be acquired vide notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act").

4. Legality and validity of notification u/s 4 and declaration issued u/s 6 of the Act came to be challenged on the sole ground that in view of the policy of the State Government, which was so conceded in the written statement filed on behalf of the State of Haryana in case reported as Mohinder Singh Sharma v. State of Haryana 1988 PLJ 525 : 1988(2) RCR 502 constructed portion could not be acquired. It was the case of appellants that land comprised in Khasra No. 413/1 and 413/2 was a constructed area belonging to them.

5. Respondent-State contested the matter and in the written statement that came to be filled on its behalf, it was its specific stand that a wrong admission came to be made in the written statement in Mohinder Singh Sharma's case (supra).

6. Learned Single Judge, before whom the matter came up for hearing, held that the precise point, as raised in this case, came to be discussed in 1992(1) RCR224 : CWP No. 3000 of 1991, Hira Lal and another v. State of Haryana and others, decided on October 31, 1991, wherein it was held that landowners could not take benefit of the policy decision because there was no such policy decision and that a wrong admission was made in the written statement in Mohinder Singh Sharma's case (supra). It was further held in the case aforesaid that the Act applies to the land as well as buildings as also that the land owners or the persons affected by the acquisition were entitled to compensation and could not claim, as a matter of right, that the superstructures, acquired by the State, must be released from acquisition until and unless a strong case of discrimination was made out. In view of decision rendered in Hira Lal's case (supra), petition filed by the appellants was dismissed.

7. Challenge to notifications, based on discrimination, was also repelled by observing that land comprised in Khasra Nos. 416, 419, 420 min., 421 and 414, belonging to others, was not acquired as there was construction prior to even issuance of notification u/s 4 and further that insofar as land, belonging to appellants is concerned, same could not be left out as it could not be adjusted in the plan. Learned counsel for the appellants, in view of positive findings returned in Hira Lal's case (supra) that there was no policy of the Government so as not to acquire or release land, subject matter of construction and that the admission of State in Mohinder Singh Sharma's case (supra) was erroneous, could urge nothing. We may, however, mention that a Division Bench of this court in Shamsher Singh and others v. The State of Haryana and other 1993 PLJ 758:1993(2) RCR 205 held that there is no fetter in acquiring land on which construction has been raised even before the date of notification u/s 4 of the Act and even if there are instructions so as not to acquire such land, same are not statutory but are only for internal guidance of government functionaries.

Finding no merit in these matters, we dismiss the same, leaving, however, the parties to bear their own costs.

8. Appeal dismissed.