

(2012) 09 P&H CK 0387

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 18567 of 2012

Ram Murti Sarin and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: Sept. 19, 2012

Acts Referred:

- Land Acquisition Act, 1894 - Section 11, 4, 48, 5A, 6

Citation: (2013) 1 RCR(Civil) 116

Hon'ble Judges: Rajiv Narain Raina, J; Hemant Gupta, J

Bench: Division Bench

Advocate: Ashish Aggarwal, with Mr. Vishal Garg, for the Appellant;

Judgement

1. Notice of motion for 16.10.2012. Ms. Palika Monga, DAG, Haryana who is present in Court accepts notice on behalf of respondent Nos. 1 to 5. Let, respondent No. 6 only be served through email.

2. The foundation of the argument raised by learned counsel for the petitioners is based on an order passed by the Division Bench of this Court on 16.07.2005 disposing of the earlier writ petition filed by the petitioners whereby on a concession of the learned Advocate General, the matter was referred to a High Powered Committee constituted to examine the grievances raised by the writ petitioners against the acquisition of their land in the background of a prayer for release/return/restitution/roll back of land acquired.

3. Prima facie, we find that from the scheme of acquisition contained in Land Acquisition Act, 1894 (for short "the Act"), the constitution of the High Powered Committee is not only de hors the statute but is in contravention of the provisions thereof.

4. The Act contemplates an opportunity of filing objections u/s 5A of the Act to the acquisition notified by way of notification u/s 4 of the Act. Such objections are

considered by the Land Acquisition Collector and on the basis of such recommendations/consideration; notification u/s 6 is issued. Thereafter, the Land Acquisition Collector is to determine the amount of compensation payable. Once the award is announced, the land vests with the State free from all encumbrances and State is competent to take possession. The only liberty available with the State u/s 48 of the Act is to withdraw from the acquisition of any land of which possession has not been taken, and that too, by notification.

5. The scheme of the Act does not provide consideration by any other authority except the Land Acquisition Collector, firstly u/s 5A of the Act and subsequently for determination of compensation u/s 11 of the Act. If a statute provides consideration in a particular manner, the consideration in any other way is excluded.

6. But we find that in a large number of cases, the State Government has conceded to the constitution of the High Powered Committee and that this Court has also passed orders thereon to direct the High Powered Committee to consider cases for release of land from time to time.

7. We have our reservations about such hybrid procedure being adopted which appears to us extralegal. The question as to whether the State can lawfully concede to the constitution of a Committee to determine as to whether any land or part of the land acquired requires to be released is prima facie apparently contrary to the scheme of the Act. The other question is whether the Court can direct consideration of the question of release of land through the medium of the High Powered Committee and this issue is also required to be authoritatively decided by a Larger Bench.

8. The matter, therefore, be placed before Hon tie the Chief Justice for constitution of the Larger Bench on the date fixed.

9. We further order that till such time, the Larger Bench decides the issue all the decisions of the High Powered Committee constituted in terms of the orders passed by this Court or on the basis of the concession given by the State shall remain subject to the final decision of the Larger Bench. In the meantime, the respondents shall not change the nature of land till the final decision of the writ petition.