

(2013) 02 P&H CK 0244

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 2169 of 2013

Vinod Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Feb. 1, 2013

Citation: (2013) 2 PLR 663

Hon'ble Judges: G.S. Sandhawalia, J; Ajay Kumar Mittal, J

Bench: Division Bench

Advocate: K.S. Dhanora, for the Appellant;

Final Decision: Dismissed

Judgement

Ajay Kumar Mittal, J.

In this petition filed under Articles 226/227 of the Constitution of India, the petitioner, inter alia, had prayed for issuance of a writ in the nature certiorari for quashing the notifications dated 1.7.1982 (Annexure P-1) issued u/s 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 5.1.1983 (Annexure P-2) issued u/s 6 of the Act and award dated 24.6.1986 (Annexure P-3). Briefly stated, the facts necessary for adjudication of the present petition are that the petitioner along with others was owner in possession of plot/khasra Nos. 131/1, 132/1, 132/3 situated within the revenue estate of village Deva, Tehsil and District Hisar. Respondent No. 2 issued notification dated 1.7.1982 (Annexure P-1) u/s 4 of the Act for acquiring the land of the petitioner and others bearing khasra Nos. 131 and 132 for construction of road passing from village Mulkan to Deva Road in Hisar District followed by notification dated 5.1.1983 (Annexure P-2) u/s 6 of the Act. After acquisition of the land, the road in question was constructed from east corner of khasra No. 132 and area of 69 square yards was included in the road. However, no area of plot No. 131 was included in the said road. The petitioner approached the respondent for demarcation of the land in question and also correction of the mutation in the land entered in the revenue record according to the road actually having been constructed. Respondent No. 3 passed award dated 24.6.1986 for the acquisition of

the said land. However, the petitioner and other landowners did not receive any compensation for acquisition of the land. The petitioner and other landowners sent a detailed representation dated 15.10.2011 (Annexure P-4) to Executive Engineer, PWD (B & R), Provincial Division 1st, Hisar for correction of the entries in the revenue record and for entering mutation of the actual land acquired for the road in the name of the respondent-department and mutation of the remaining land in the name of the petitioner and other landowners. According to the petitioner, the said plots/khasra Nos. 131 and 132 except 69 square yards are still in possession of the petitioner and other landowners of the plots and they have not received any compensation inspite of repeated requests and representations. Hence, the petitioner along with others was entitled to the release of remaining land from the acquisition. Hence, the present writ petition.

2. Learned counsel for the petitioner submitted that the award was passed after the expiry of two years of the issuance of notification u/s 6 of the Act on 5.1.1983 and thus, the acquisition proceedings had lapsed and the land of the petitioner deserves to be released. Reference was made to Section 11A of the Act. It was also submitted that mutation of the remaining land after excluding 69 square yards on which construction had been raised was excluded from acquisition comprised in khasra Nos. 131 and 132 which have been wrongly entered in the name of the department and the same were liable to be corrected and released from the acquisition.

3. After hearing learned counsel for the petitioner and perusing the record, we do not find any merit in the writ petition.

4. Section 9 of the Land Acquisition (Amendment) Act, 1984 introduced Section 11A into the Act with effect from 24.9.1984 which reads thus:-

11-A. Period within which an award shall be made - The Collector shall make an award u/s 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

Explanation.- In computing the period of two years referred to in this section the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

5. The mandate of Section 11A of the Act is that the Collector is required to make an award u/s 11 of the Act within two years from the date of publication of the declaration and failure to do so within that period results in abandonment of the entire proceedings for the acquisition of the land. Similarly under the Proviso, where the declaration had been published before the commencement of the Land

Acquisition (Amendment) Act, 1984, i.e., 24.9.1984, the award had to be made within two years from such commencement and if the award was not so made the entire acquisition proceedings stands lapsed. The period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded for computing the period of two years referred hereinabove by virtue of explanation appended to Section 11A of the Act. It may be noticed that before the insertion of Section 11A of the Act, there was no provision corresponding to it in the Act which prescribed any limitation for announcing the award by the Collector.

6. Examining the factual matrix of the present case, the declaration u/s 6 of the Act was admittedly published on 5.1.1983 (Annexure P-2), i.e. before the commencement of the Amendment Act of 1984. Thus, the proviso to Section 11A of the Act applied and the award was required to be made within two years from such commencement. According to proviso to Section 11A of the Act, limitation for validly passing the award was upto 24.9.1986 and, therefore, the award announced on 24.6.1986 could not be faulted. Further, the petitioner has sought to raise objection after about 27 years and the said stale claim could not be revived now. In view of the above, we do not find any merit in this writ petition. The writ petition is accordingly dismissed. However, the petitioner had made representation, Annexure P-4, for correction of mutation to Executive Engineer, PWD (B & R) Provincial Division Ist, Hisar and not to the concerned revenue authority. It is made clear that in case, the petitioner has any grievance with regard to the mutation, he would be at liberty to approach the appropriate revenue authority seeking the said relief in accordance with law. In so far as claim of the petitioner with regard to payment of compensation of the acquired land is concerned, the petitioner shall also be entitled to take compensation from the competent authority as per provisions of the Act, if not already claimed so far.