

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 14184 of 2015
Date of Decision: 17.7.2015

Karambir and others

---Petitioners

versus

State of Haryana and others

---Respondents

Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ashok Tyagi, Advocate
for the petitioners

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition under Articles 226/227 of the Constitution of India has been filed for quashing order dated 19.12.2014 passed by the Collector, Sonipat exercising powers of Land Acquisition Collector under the Land Acquisition Act, 1894 ("the Act"- for short) (Respondent No. 2). Further prayer has been made for directing the respondents to re-determine compensation under Section 28-A of the Act and award compensation at the rate of Rs. 4/- per square yard for land of the petitioners.

2. Counsel for the petitioners would contend that the petitioners were owners of agricultural land situated in the revenue estate of village Gannaur, District Sonipat, Haryana. The total land of the petitioners

measuring 129.11 acres was acquired for a company namely Bharat Steel Tubes Limited. The award was passed on 30.4.1963. Some of the land owners filed reference under Section 18 of the Act which was decided on 25.4.1970 vide annexure P-3. The claimants preferred Regular First Appeal before this Court which was allowed and compensation was enhanced at the rate of Rs. 4/- per square yard for all categories of land vide judgment dated 16.5.1978 (Annexure P-4). The State of Haryana challenged the judgment dated 16.5.1978 in LPA No. 331 of 1978. The Division Bench of this Court set aside the judgment of the learned single Judge and restored the order dated 25.4.1970. The judgment of the Division Bench was challenged before the Apex Court and the Supreme Court upheld the compensation determined by the learned single Judge vide its order dated 30.7.1987.

3. It is further contended that in the year 1984, the Act was amended with effect from 24.9.1984 whereby Section 28-A was inserted and the land owners were given right to get the compensation re-determined on the basis of award of the Court. 17 land owners including predecessors of the petitioners filed application under Section 28-A of the Act on 30.10.1987 which came to be dismissed by respondent No. 2 vide order dated 18.7.1990 (Annexure P-7). The said order was challenged before this Court in Civil Writ Petition No. 16416 of 1990 and order dated 18.7.1990 was set aside with a direction to the Land Acquisition Collector, Sonipat to decide the application afresh in the light of observations made in the order. It is contended that claim of the petitioners has been wrongly and illegally rejected by the Land Acquisition Collector, Sonipat vide impugned order dated 19.12.2014.

4. Counsel for the petitioners contends that the land owners can file a petition for re-determination of compensation on the basis of award passed by the Reference Court which stands modified by the superior Court. It was further argued that in such a situation, it was not essential for the claimants to have filed a petition under Section 28-A of the Act after the decision by the Reference Court alone. In support of his contention, he has relied upon judgment of the Hon'ble Supreme Court of India **Union of India vs. Munshi Ram (Dead) by Lrs and others, AIR 2006 SC 1716**. Further, reference has been made to the judgment of this Court dated 25.7.2013 passed in Civil Writ Petition No. 13701 of 1995 (Union of India vs. Manjit Singh (through Lrs.) and others).

5. We have heard counsel for the petitioners and perused the records.

6. The controversy raised in the present petition stands set at rest in view of the Division Bench judgment of this Court in Civil Writ Petition No. 12115 of 2015 (Satish and others vs. State of Haryana and others) decided on 29.6.2015 wherein this Court on a detailed consideration of the judgment passed by the Hon'ble Supreme Court in **Union of India vs. Munshi Ram (Dead) by Lrs and others'** case (supra) and the Division Bench judgment of this Court in **Union of India vs. Manjit Singh (through Lrs) and others'** case (supra) as well as the decisions of the Hon'ble Supreme Court in **Jose Antonio Cruz Dos R. Rodriguese and another vs. Land Acquisition Collector and another and Comunidade of Cavelossim vs. Land Acquisition Collector and another, (1996) 6 SCC 746, Union of India and another vs. Pradeep Kumari and others (1995)**

2 SCC 736 came to hold that the judgment passed by the Division Bench of this Court is per incuriam. It was further held that petition under Section 28-A of the Act filed on 3.11.1987 in the case wherein reference under Section 18 of the Act filed by other land owners was decided by the Reference Court on 25.4.1970 is clearly beyond the period of limitation and has rightly been dismissed by the Collector.

7. When the facts and circumstances of the present case are examined in the light of ratio laid down in Satish and others' case (supra), we are unable to agree with the submissions of the petitioners that the impugned order suffers from any infirmity much less illegality as would call for intervention.

8. In view of what has been discussed hereinabove, finding no merit, the petition is dismissed. No order as to costs.

(Rekha Mittal)
Judge

(Ajay Kumar Mittal)
Judge

17.7.2015

PARAMJIT