**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RFA No. 4684 of 2009 (O&M)**

Date of decision : 31.8.2015

Laxmi Narain .. Appellant

versus

State of Haryana .. Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal**

Present: Appellant in person.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

**Rajesh Bindal, J.**

1. Challenge in the present appeal has been made to the award of the learned Reference Court vide which the objections filed by the landowner claiming higher compensation on account of acquisition of land, were dismissed.

2. Briefly the facts of the case as are available on record are that the appellant, who appears in person, claimed that 10 kanals of land owned by his father Late Budh Ram was sought to be acquired by the State vide notification issued on 3.11.1958 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'). Notification under Section 6 of the Act was issued on 3.11.1958, which was published on 14.11.1958. The Land Acquisition Collector (for short, 'the Collector') vide award dated 20.4.1959 assessed the market value of the acquired land at ₹ 71.99. Father of the appellant, namely, Budh Ram expired on 21.10.1957. The appellant was born on 18.7.1954 and his younger brother Satbir Singh on 14.3.1956. They were not in the knowledge of the acquisition. The amount of compensation was not paid to any one. In the year 1996, they came to know from their paternal uncle that the land owned by their father Late Budh Ram was acquired in the year 1958 but he was not paid any compensation. The

matter was taken up with the authorities. On 5.8.1996, two vouchers, of ₹ 35.99 in favour of the appellant and ₹ 36/- in favour of his brother Satbir Singh, were sent, which were not accepted by the appellant. The appellant continued representing the authorities for payment of adequate compensation but no response was received. Civil Writ Petition No. 9250 of 2008 was filed in this Court raising the grievance that compensation was not paid despite acquisition of land. The same was disposed of on 23.9.2008 giving liberty to the appellant herein to file objections before the Collector, which were to be referred to the learned Court below for determination of compensation. The learned Court below vide impugned order, has wrongly dismissed the objections. The appellant was not at fault. The land was acquired in the year 1958. The compensation should have been paid to the rightful owner immediately thereafter. Father of the appellant died in the year 1957 even before the award was announced by the Collector. The authorities were duty bound to find out the legal heirs of the deceased landowner and pay the compensation to them. They having failed to discharge their duty, the appellant cannot be made to suffer. He further submitted that if the amount of compensation had been kept in a fixed deposit in the year 1958, the appellant would have got good amount of compensation after adding the interest thereon. Payment of ₹ 71.99 at this stage is a joke. Had the amount been paid at the right time, the same could be utilised for purchase of other land. The appellant being not at fault, the rejection of the objections filed by the appellant on account of delay is also erroneous.

3. On the other hand, learned counsel for the State submitted that after the announcement of the award by the Collector on 20.4.1959, the amount of compensation was deposited in the treasury along with the amount of other landowners. It is not in dispute that the appellant became major in the year 1972 but did not take steps either to claim compensation or to file any objections. For the first time in the year 1976, he moved application before the higher authorities. Immediately the matter was enquired into and from the record it was found that the amount was lying deposited in the Treasury. The vouchers were got prepared and sent to the appellant. However, he refused to accept the same. Even thereafter the

appellant remained quite for about 12 years till such time he filed CWP No. 9250 of 2008 in this Court, which was disposed of on 23.9.2008 giving liberty to the petitioner to file objections which were to be decided as per law. If considered in the light of Section 18 of the Act, the objections filed at that stage were clearly time barred and the delay in filing thereof could not be condoned, as the limitation Act as such is not applicable. The claim of the appellant to pay him compensation at the present rate is totally misconceived as the compensation for acquisition of land had to be assessed as on the date of issuance of notification under Section 4 of the Act and not any date subsequent thereto. On merits, no evidence was led by the appellant in support of his case to claim higher compensation on the date of issuance of notification under Section 4 of the Act.

4. Heard the appellant and the counsel for the State.

5. The undisputed facts as contended by the appellant, the State counsel and as have come on record are that the land owned by late Budh Ram, father of the appellant was notified under Section 4 of the Act on 3.11.1958. The award was passed by the Collector on 20.4.1959. Budh Ram died on 21.10.1957. The appellant was minor at that time as his date of birth is 18.7.1954. His younger brother was born on 14.3.1956. Meaning thereby that at the time of death of their father Budh Ram, the appellant and his brother Satbir Singh were minor. The Collector after announcing the award, deposited the amount in the treasury. It remained there as none came forward to claim the same. As stated by the appellant, in the year 1996, he was informed by his paternal uncle that the land owned by his father late Budh Ram was acquired way back in the year 1958 and no compensation was paid. Thereafter, the appellant took up the matter with the authorities. Though the matter was quite old but still on record it was found that a sum of ₹ 71.99 was deposited in the treasury after announcement of the award by the Collector. Father of the appellant was recorded owner of the land at that time. He could not claim the same as he had expired before that. The appellant when offered the compensation of ₹ 71.99, in the year 1996 refused to accept the same. It is claimed that he continued representing the authorities but with no consequence. In the year 2008, CWP No. 9250 of 2008 was filed, which was disposed of on 23.9.2008. The relevant part of

the order is extracted below:-

> "On the other hand, learned Deputy Advocate General submitted that the compensation amount was sent to petitioner soon after the award and he is not entitled to get any benefit by pleading ignorance about acquisition at this belated stage. However taking into account the fact that petitioner's 10 kanals land was acquired and he had right to seek a reference for enhancement of compensation, which he could not avail due to minority and ignorance, we deem it expedient to grant him liberty to submit an application under Section 18 of the Land Acquisition Act to Land Acquisition Collector with direction that the said application shall be decided and disposed of within four weeks thereafter and as required under law would be referred to learned District Judge for determination of compensation.
>
> The original vouchers submitted in Court are returned to learned Additional Advocate General, Shri Ashish Kapur."

6. It was thereafter that the objections were filed by the appellant, which were dismissed by the learned Court below.

7. As far as the claim of the appellant regarding payment of compensation at the rates applicable in the year 1996, when he was offered the compensation is concerned, the same cannot be accepted in terms of provisions of the Act, according to which the cut off date for determination of compensation is the date on which notification under Section 4 of the Act is issued. For the purpose reference can be made to *Union of India vs Raj Kumar Baghal Singh (Dead)* 2014 (10) SCC 422.

8. No evidence has been led by the appellant before the learned Reference Court in support of his plea that the value of the land on the date of issuance of notification under Section 4 of the Act was more than what was awarded by the Collector and the same deserves to be enhanced and the award of the Collector was not just and fair. Hence, the case for enhancement of compensation as such is not made out.

9. However, still the fact remains that the land was acquired by the State way back in the year 1958. No doubt, it was claimed that the amount of compensation was deposited in the treasury and the same was not claimed by any one. It was the duty of the State also to have noticed this fact and paid the compensation to the rightful owner. The predecessor-in-interest of the appellant was deprived of his land without payment of any compensation.

10. The issue, as to whether with the deposit of amount of compensation by the Government in the Treasury, the liability to pay interest stops or not, was considered by Hon'ble the Supreme Court in *Pune Municipal Corporation and another vs Harakchand Misirimal Solanki and others* (2014) 3 SCC 183, para 19 thereof is extracted below:-

> "19. Now, this is admitted position that award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (Rs. 27 crores) was deposited in the government treasury. Can it be said that deposit of the amount of compensation in the government treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in *Ivo Agnelo Santimano Fernandes and Ors. v. State of Goa and Anr* (2011) 11 SCC 506, relying upon the earlier decision in Prem Nath Kapur v. National Fertilizers Corpn. of India Ltd. (1996) 2 SCC 71, has held that the deposit of the amount of the compensation in the state's revenue account is of no avail and the liability of the state to pay interest subsists till the amount has not been deposited in Court."
> (emphasis supplied).

11. The same was followed in *Union of India and others vs Shiv Raj and others* (2014) 6 SCC 564 and Sree Balaji Nagar Residential Association vs State of Tamil Nadu and others 2014 (1) SCALE 388.

12. In the case in hand, it is not in dispute that the amount of compensation payable to the predecessor-in-interest of the appellant was

merely deposited in the Treasury and was offered to the appellant for payment 28 years thereafter. Hence, the liability to pay interest is on the State. But the fact remains that land was acquired way back in the year 1958. The amount at that time was too meager but the value of the money at that time was much more. Instead of leaving the the parties to file execution and calculate the interest, in my opinion, the present appeal can be disposed of with a direction to the State to pay lumsum amount of ₹ 1 lac to the claimants according to their share. For the conduct of the State in depriving the parties of their rightful claim for such a long period, costs of ₹ 50,000/- is imposed. The same be also paid to the claimants accordingly to their share in the property.

13. The appeal stands disposed of accordingly. The order be complied with within two months.

31.8.2015 (Rajesh Bindal)
vs Judge

(Refer to Reporter)