

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8452 of 2000 (O&M)
Date of decision: 9.2.2017

Anoop Kumar Bansal and others

.. Petitioners

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Sube Sharma, Advocate for the petitioners.

Mr. Ankur Mittal, Addl. Advocate General, Haryana.

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Rajesh Bindal J.

The petitioners-landowners have approached this court praying for quashing of the award dated 1.6.2000, passed by Land Acquisition Collector, Panchkula (for short, 'the Collector') assessing the value of the acquired land owned by the petitioners.

Briefly, the facts of the case are that vide notification dated 4.6.1997, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'), State of Haryana sought to acquire 4.21 acres of land, situated in village Jagadhri, Tehsil Jagadhri, District Yamuna Nagar for residential, commercial and industrial area for Sectors 17 and 18, Jagadhri.

The same was followed by notification dated 2.6.1998, issued under Section 6 of the 1894 Act. The Collector, vide award dated 1.6.2000, assessed the market value of the acquired land.

Learned counsel for the petitioners submitted that while assessing the compensation under the provisions of the 1894 Act, the Collector exercises quasi-judicial function. He is bound to consider the material produced on record by the landowners for the purpose of assessment of compensation. In the case in hand, it is the admitted position on record that the evidence produced on record by the landowners was not considered. Rather, the award mentions that the petitioners had not produced any material, which was factually incorrect. There were number of sale-deeds of the land situated in the area, which were produced by the petitioners for assessment of compensation. In support of his arguments, reliance was placed upon judgment of Hon'ble the Supreme Court in Kedar Nath Yadav v. State of West Bengal and others, 2016(4) RCR (Civil) 255 and of this Court in Ram Murti Sarin and others v. State of Haryana and others, (2013-2) PLR 505.

On the last date of hearing, issue arose as to whether the petitioners had filed objections under Section 18 of the 1894 Act or not. Learned counsel for the petitioners submitted that objections were filed by the petitioners. Those were referred to the Court by the Collector and Additional District Judge, Jagadhri, vide order dated 7.5.2004, while noticing the pendency of the present petition in this court, adjourned the same *sine die* to come up after the decision of the writ petition, hence, those are pending. The submission is that filing of objections will not have any effect on the right of the petitioners to challenge the award of the Collector,

once it is in violation of the settled principles of law.

On the other hand, learned counsel for the State submitted that no doubt, the Collector, while assessing the compensation, exercises quasi-judicial function, however, as he had assessed the compensation and in case there is any error in the process, the landowners have remedy to file objections and get the amount re-determined by the court by leading evidence, which may not be restricted to even the material produced before the Collector. In the present case, admittedly, the petitioners have filed objections and those have been referred to the court. The petitioners having already availed of their effective alternative remedy should be relegated to pursue the same. He further submitted that in fact, valuation of the land acquired vide same notification has attained finality upto Hon'ble the Supreme Court in Civil Appeal Nos. 6121-6123 of 2013—Anoop Kumar and others etc. Etc. v. M/s State of Haryana and others, decided on 16.7.2013.

Heard learned counsel for the parties and perused the paper book.

As far as the legal position to the effect that power being exercised by the Collector while assessing compensation for the acquired land is quasi-judicial in nature, Full Bench of this Court in Ram Murti Sarin and others' case (supra) opined as under:

“11. Once Section 6 notification is published, it is the Collector, who is to conduct an inquiry so to determine the amount of compensation and announce Award in terms of Section 11 of the Act though the award itself is required to be approved by State Government in terms of proviso to Section

11 of the Act. Such inquiry conducted by the Land Acquisition Collector is quasi judicial proceeding, which determines the right of the person interested in respect of the amount of compensation and give them an opportunity to seek enhancement of compensation, if any land owner is not satisfied with the amount of compensation so awarded. After the announcement of the Award, it is the Collector who takes possession of the land, which thereupon vests absolute with the State free from all encumbrances.”

In Kedar Nath Yadav's case (supra), Hon'ble the Supreme Court opined that while determining the compensation for the aquired land, the Collector is required to give fair opportunity to all landowners. Determination of market value of land by clubbing a number of cases together and passing a composite award is no award in the eyes of law.

No doubt, if an award passed by the Collector is to be examined independently, the same has to be on the basis of settled principles of law. Every quasi-judicial authority is required to discharge its functions in terms of the settled principles. Hon'ble the Supreme Court in Indian National Congress (I) v. Institute of Social Welfare and others, (2002) 5 SCC 685 explained the meaning of the term 'quasi judicial'. In Kranti Associates Private Limited and another v. Masood Ahmed Khan and others, (2010) 9 SCC 496, Hon'ble the Supreme Court, with reference to exercise of quasi-judicial functions by the authority laid down certain principles, which are as under:

“(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions

affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to

demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain, (1994) 19 EHRR 553, at 562 para 29 and Anyav. University of Oxford, 2001 EWCA Civ 405(CA), wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for

judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, the development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

However, in the case in hand, we need to consider totality of circumstances and developments, which have taken place during the pendency of the present petition. Notification under Section 4 of the 1894 Act was issued on 4.6.1997 and the award was announced by the Collector on 1.6.2000. The total area acquired was measuring 4.21 acres. Against the award of the Collector, the landowners have a remedy of filing objections under Section 18 of the 1894 Act which, in turn, are referred to the court for re-determination of the compensation. In the case in hand, admittedly the petitioners had also filed objections which were referred to the court at Jagadhri and were adjourned *sine die* vide order dated 7.5.2004, to come up after the decision of the present writ petition. Further, another fact brought to the notice of the court by learned counsel for the State is that valuation of the land acquired vide same notification was considered by Hon'ble the Supreme Court in Anoop Kumar Yadav's case (supra) and assessment of compensation @ ₹ 1,560/- per square yard, as determined by this court, was upheld.

Keeping in view the aforesaid developments, which have taken place during the pendency of the present petition, in our opinion, it will be an exercise in futility now to refer the matter back to the Collector for

assessment of compensation, even if we come to an opinion that the award suffers from illegality. Majority of the landowners have already contested their cases and got the amount of compensation determined by the Court.

For the reasons mentioned above, we do not find any reason to interfere in the present petition at this stage. The same is, accordingly, dismissed, however, this will not debar the petitioners from pursuing their matters pending before the court below at Jagadhri, where the objections filed by them against the award of the Collector have been referred for re-determination of compensation. The matter shall be decided by the court below in accordance with law.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

9.2.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No