

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

CWP No.12583 of 2006 (O&M)

Date of decision: February 08, 2017

Tripta Devi and others

----Petitioners

Versus

Union of India and others

----Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal  
Hon'ble Mr. Justice Harinder Singh Sidhu**

**Present:** Ms. Supriya Garg, Advocate  
for the petitioners.

Mr. Rajvir Singh Sihag, Advocate  
for Union of India.

\*\*\*

**HARINDER SINGH SIDHU, J.**

1. This judgment shall dispose of two writ petitions i.e. CWP No.12583 of 2006 and CWP No.13868 of 2006, as similar issue is involved in both the petitions.

For the purpose of deciding the issue, the facts are being taken from CWP No.12583 of 2006.

2. By filing this petition, the petitioners have sought directions to the respondents to appoint an arbitrator under Section 8(b) of the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short '1952 Act') to determine the compensation for their land measuring 98 Bighas 8 Biswas comprised in Khasra No.2325 which was acquired on 20.01.1975.

3. Land measuring 98 Bighas 8 Biswas comprised in Khasra No.2325 in the revenue estate of Bathinda belonging to the predecessors-in-interest of the petitioners was acquired for establishment of Military Cantonment at Bathinda under the provisions of the 1952 Act. The Special Land Acquisition Collector, Jalandhar vide his award dated 6.3.1975 awarded a compensation of ₹ 2,21,480/- In respect of some land owners covered by the same notification, Arbitrator was appointed and their cases were referred to the Arbitrator-cum-Additional District Judge, Bathinda, who passed a consolidated award on 11.10.1983. It is averred that despite repeated requests, no arbitrator was appointed in the case of the petitioners. Consequently, the petitioners were constrained to send legal notice dated 03.06.2003, wherein, they specifically stated that they have not received any offer of compensation and requested the respondents to appoint an arbitrator for determination of compensation. The Special Land Acquisition Collector, Jalandhar (respondent No.2) through his letter dated 20.06.2003 (Annexure P-2) called for a report from the Naib Tehsildar, (Military Land Acquisition), Bathinda, as to why the petitioners had not been given any offer of compensation and if any offer was given, a copy of the same be sent to the office. Thereafter, respondent No.2 vide his letter No.304/SLAC/NT dated 20.05.2004 gave an offer of compensation under Rule 9 (3) of the Requisitioning and Acquisition of Immovable Property Rules, 1953 (for short, '1953 Rules'). The petitioners immediately submitted application dated 04.06.2004 (Annexure P-3) for appointment of Arbitrator, but no action thereon was taken.

proceedings for getting due compensation, but eventually without any success. They filed application under Section 28-A of the Land Acquisition Act, 1894 (for short '1894 Act') for redetermining their compensation as per the compensation awarded to other land owners. This application was allowed and vide award dated 30.05.1988, respondent No.2 re-determined the compensation at the same rate as allowed to other landowners. However, the compensation was not paid. The Union of India filed CWP No.198 of 1994 titled 'Union of India vs. Spl. Land Acquisition Collector and others' challenging the said Award, which was allowed on 01.04.1999. LPA No.971 of 1999 titled 'Dyal Singh and others vs. Union of India and others' filed by the petitioners was dismissed on 27.01.2000. Special Leave Petition No.11687 of 2000 titled 'Dayal Singh and others vs. Union of India and others' was also dismissed vide judgment dated 29.01.2003. Hon'ble the Supreme Court held that provisions of Section 28-A of the 1894 Act were not applicable in case of acquisition under the 1952 Act. Similarly, the High Court allowed CWP No.4202 of 1976 filed by the petitioners for grant of solatium and interest on the compensation. Though, LPA No.1147 of 1982 titled 'Union of India vs. Chhaju Ram etc.' filed by the Union of India was dismissed on 13.09.1982, but Hon'ble the Supreme Court vide its judgment 16.04.2003, reported as **Union of India v. Chhajju Ram (Dead) by LRs., 2003(5) SCC 568** reversed the same holding that the provisions of the 1894 Act are not applicable in case of acquisition under the 1952 Act.

5. Ld. Counsel for the petitioners contended that as per the scheme of the Rules, offer of compensation has to be specifically accepted

by the landowner for it to be binding. There is no deeming provision to the effect that in the absence of communication from the land owner of acceptance or rejection of the offer, it would be deemed accepted. Reliance was placed on a decision of this Court in **Gujjar Singh and another vs. Union of India and another, 2010 SCC OnLine P&H 2290**. He argued that it was only after the legal notice dated 20.06.2003 sent by the petitioners that respondent No.2 vide his letter dated 20.05.2004 gave an offer of compensation under Rule 9 (3) of the 1953 Rules. The petitioners immediately submitted application dated 04.06.2004 for appointment of Arbitrator, but no action was taken. As no arbitrator was appointed, the petitioners were left with no remedy, but to file this petition.

6. Ld. Counsel for the respondents argued that the writ petition is liable to be dismissed on the ground of delay and laches. The land of the petitioners was requisitioned vide notification dated 20.01.1975. Award was passed by the Special Land Acquisition Collector, Jalandhar on 06.03.1975. The present petition having been filed in the year 2006 after a lapse of more than 30 years is clearly not maintainable. Secondly, he argued that as the petitioners had not communicated the non acceptance of the offer within 15 days from the date of offer nor made a request for appointment of the arbitrator in terms of Rule 9(5) of the 1953 Rules, they cannot now file the present petition for this purpose. He argued that in all cases where a request for appointment of Arbitrator was received, the Arbitrator was appointed, but the petitioners or their predecessors-in-interest never made such a request. He denied that any legal notice, as alleged by the petitioners, had been received by the respondents.

7. Reliance was placed on a decision of this Court in **Banto Ram and others vs. The Union of India and others**, AIR 1990 (Pb. & Hr.) 53, where the petition seeking directions for appointment of Arbitrator was dismissed on the ground of delay and laches.

8. We have heard Ld. Counsel for the parties and perused the record.

9. Rule 9 of the 1953 Rules deals with the manner of payment of compensation. Sub-rules (3) (5) and (6) of the said Rule are relevant and are extracted below:

***“9. Compensation. -***

***(3) The competent authority shall, as soon as may be practicable after the making of a requisitioning order or the service of a notice of acquisition, communicate to each person interested an offer of what, in the opinion of the competent authority, is a fair amount of compensation payable to such person in respect of the property requisitioned or acquired.***

***(5) (i) Every person interested to whom an offer is made under sub-rule(3) shall, within fifteen days of the receipt of the offer, communicate in writing to the competent authority his acceptance, or otherwise of the offer. If he accepts the offer, the competent authority shall enter into an agreement with him on behalf of Central Government in Form ‘K’.***

***(ii) In the following circumstances, the competent authority may, at his discretion, make [to all eligible claimants] ‘on account’ payment upto 80 percent. Of the amount which, in his opinion, is likely to be assessed as compensation or recurring compensation as the case may be:-***

***(a) when there is likely to be delay in assessing compensation;***

*(b) where the competent authority has made an assessment but there is delay in reaching an agreement though there is a reasonable prospect of agreement being reached; or*

*(c) where it is clear that an agreement cannot be reached.*

*(iii) If the competent authority makes an 'on account' payment under clause (ii), he shall enter into an agreement with the person to whom payment is made on behalf of the Central Government in form 'L' with such modifications as the nature of the case may require.*

*(6) If any person to whom an offer is made under sub-rule(3) does not accept the offer or does not within fifteen days of the receipt of the offer communicate in writing to the competent authority his acceptance or otherwise of the offer, the competent authority shall, as soon as may be, submit to the Central Government a report setting forth the full facts of the case, particularly as regards the nature and extent of disagreement between himself on the one hand and the said person on the other hand and he shall also forward with the report all connected papers. The competent authority shall at the same time deposit in Court the amount offered by him to the said person under sub rule(3).]”*

These provisions have been considered by this Court in ***Gujjar Singh's case*** (supra), wherein two earlier decisions of this Court in **CWP No.12280 of 1995** titled as '**Karam Dev Bansal and another vs. Union of India and another**' decided on 31.01.1996 and **CWP No.6985 of 2006** titled as '**Ranjit Singh vs. Union of India and another**' decided on 20.10.2008, were relied on and directions were issued to the respondents to refer the case of the petitioners therein to the Arbitrator. It was also directed that the

respondents would have liberty to raise the plea of estoppel as well as delay and laches and such pleas would be gone into by the Arbitrator in accordance with law.

10. In ***Karam Dev Bansal's case*** (supra), it was observed:-

*“There is no deeming provision provided by the rules. For non-communication of acceptance or rejection in writing by itself would not result in an inference of deemed acceptance of the offer, particularly when statutorily it is required that in the event of acceptance of the offer, the Government would enter into an agreement with the petitioners on behalf of the Central Government in the prescribed form.*

*In our considered view, there being no express or implied consent of accepting the offer result in the agreement, mere non-communication of acceptance or rejection would by itself be not an attribute of acceptance of offer binding the petitioners. Nor it would be deemed an acceptance particularly when no statutory agreement was executed interest (inter se?) the parties.*

*In view of the peculiar facts and circumstances of the present case, the petitioners are deprived of their property. The rules have to be interpreted strictly. The only reasonable inference is that petitioners have never accepted the offer made, and are within their legitimate right to seek appointment of an Arbitrator which is just and equitable demand of the petitioners. The State cannot deprive the petitioners of their property and foreclose their just and equitable claim to be determined by appointment of an Arbitrator. Resultantly, the writ petition is allowed and the respondents are directed to appoint an Arbitrator within three months.”*

Special Leave to Appeal (Civil) Nos. 20443-20446 of 1996 filed by the Union of India against the aforesaid orders were dismissed on 19.9.1997.

11. In ***Ranjit Singh's case*** (supra), it was observed as under:

*“Having heard Learned Counsel for the parties at some length and on perusal of the record, I am of the considered view that these writ petitions deserve to succeed in part though with a caveat that the question as to whether or not the petitioner was sent a valid offer under Rule 9(3) and (5) of the Rules and whether or not the same was received by him, are purely questions of fact which cannot be satisfactorily gone into by this Court in exercise of its extraordinary writ jurisdiction and are left open to be decided by the Arbitrator. It is well settled that an arbitrator under the statute is competent to decide all the ancillary and allied questions arising in relation to the principal dispute referred for adjudication. One of the contentions raised on behalf of the petitioner is that the notices were not sent at the correct address. If that is so, prima-facie, the objection raised by the respondents that the petitioner failed to respond within the stipulated period of 15 days, cannot sustain. Similarly, if the respondents are able to prove before the arbitrator that the notices were in fact sent and received by the petitioner and his acquiescence amounts to accepting the offer, the respondents would be well within their right to contend that the petitioner's claim is not maintainable and that issuance of a legal notice by him in the year 2005 was nothing but a futile attempt to revive the cause the action which had actually accrued in his favour way back in the year 1990. No final opinion, however, can be expressed on these contentious issues at this stage”.*

The ratio of these decisions is fully attracted to the facts of this case. In these cases the plea of delay and acquiescence as raised herein have been taken note of and it has been directed that such pleas can be raised before the Arbitrator who would consider them in accordance with law.

12. In Banto Ram's case relied on by the respondents the writ petition was dismissed only on the general principle of delay and laches. The scheme of Rule 9 of the 1953 Rules which details the procedure and manner of payment of compensation including communicating the offer of compensation by the competent authority, its acceptance or rejection by the land owner, the requirement of entering into an agreement in the prescribed form in case of acceptance etc. has not been considered. It has also not considered that there is no deemed acceptance envisaged under the 1953 Rules. Hence, this case is of no help to the respondents.

13. Consequently, these petitions are allowed. The respondents are directed to refer the dispute to the Arbitrator for adjudication within a period of three months from the date of receipt of certified copy of this order. It is made clear that it would be open to the respondents to raise the plea of estoppel as well as delay and laches or that there exists no dispute requiring adjudication by the Arbitrator. All such contentions shall be gone into by the Arbitrator in accordance with law.

**(RAJESH BINDAL)**  
**JUDGE**

**(HARINDER SINGH SIDHU)**  
**JUDGE**

**February 08, 2017**

gian

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No