

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20845 of 2018
Date of Decision: 10.01.2019

Kuldeep Singh & Anr.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Shubhashish Kukreti, Advocate for the petitioners

Ms. Simran Grewal Randhawa, AAG Punjab

G.S. SANDHAWALIA, J. (Oral)

(1) The writ petition under Article 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of mandamus to direct the respondents to refer the matter under Section 18 of the Land Acquisition Act, 1894 for determination to the Civil Court, Patiala with regard to the amount of compensation payable to the petitioners relating to the acquired land situated at village Roharijagir, Tehsil and District Patiala for the purpose of Roharijagir Drain.

(2) As per the averments made in the writ petition, notifications under Section 4 of the 1894 Act was issued on 28.07.2004 and under Section 6 of the Act was issued on 20.12.2005 and the award was passed on 15.01.2010. It is the case of the petitioners that they received the cheque only thereafter and the date of knowledge as such is attributed from the said date and as such application (P1) under Section 18 of the Act was filed on 25.02.2010 for enhancement of compensation.

(3) On 31.10.2018, this Court passed the following order:-

“Replies have been filed on behalf of respondent Nos. 3 & 4 and respondent No. 5. The same are taken on record. Office to tag the same at appropriate place.

Mr. Manjeet Singh Cheema, Collector Land Acquisition is present in Court in view of the earlier directions and has brought Rs.20,000/- by way of bank draft in the name of the petitioners as costs. The same has been handed over to the counsel for the petitioners.

In preliminary objection No.4 of the reply it has been mentioned that application for reference in the case of Civil Court was made by the petitioners on 19.03.2010 i.e. 20 days late since the award was passed on 15.01.2010. The noting sheet of the decision (Annexure R/4) has been attached and an averments has been made that the Collector is not competent to waive of the delay. The said explanation on the face of it is not justified as admittedly it is not in the jurisdiction of Collector Land Acquisition to opine upon whether the claim is time barred or not and whether the petitioners have constructive knowledge of the award. The same falls within the jurisdiction of the Reference/Civil Court.

Faced with this situation Mr. Cheema submits that he will rectify the error and take necessary action on the petition filed under Section 18 and refer it to the District Judge, Patiala, within one week.

Adjourned to 10.01.2019.

Needful be done as undertaken and status report be filed. In case the said is done, the officer need not be present in Court on the next date of hearing.

(4) In pursuance of the said order, the affidavit dated 28.12.2018 has been filed by Manjit Singh Cheema, PCS, Collector Land Acquisition, Drainage Circle, Patiala on behalf of respondents No.3&4 wherein it is averred that the matter has been referred to the District Court, Patiala vide communication dated 01.11.2018 (R1). A perusal of the said letter would show that it has been the continuous stand of the respondents that the

application as such was time barred and it has thus been referred to the Civil Court in view of the directions issued by this Court, as reproduced above.

(5) Resultantly, this Court is of the opinion that the matter has become infructuous in view of the reference which is stated to have been made. However, it is made clear that this Court has not opined on merits at any point of time and it shall be for the Civil Court/Reference Court to adjudicate upon the merits of the issue which the State might take in response to the reference petition.

(6) The writ petition stands disposed of accordingly.

10.01.2019

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(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

No