

State Of Punjab & Anr vs Shri Satinder Bir Singh on 22 February, 1995

Equivalent citations: 1995 SCC (3) 330, JT 1995 (2) 572, 1995 AIR SCW 1790, 1995 (3) SCC 330, (1995) 2 PUN LR 696, (1995) 1 RENTLR 591, (1995) 2 IJR 962 (SC), (1995) 1 LANDLR 507, (1995) 1 MAD LJ 108, (1995) 3 SCJ 117, (1995) 2 SCR 255 (SC), (1995) 1 CURCC 501, (1995) 2 JT 572 (SC)

Author: K. Ramaswamy

Bench: K. Ramaswamy, B.L Hansaria

PETITIONER:
STATE OF PUNJAB & ANR.

Vs.

RESPONDENT:
SHRI SATINDER BIR SINGH

DATE OF JUDGMENT 22/02/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1995 SCC (3) 330 JT 1995 (2) 572
1995 SCALE (2) 97

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. This appeal by special leave arises from the order of the Single Judge of the High Court of Punjab & Haryana dated April 25, 1977 made in Civil Revision Application No. 512/73. The facts lie in a short

compass for deciding the controversy. They are:

Notification under s.4(1) of the Land Acquisition Act, 1894, (for short 'the Act') was published in the State Gazette on 15.1.1970 acquiring 40 kanals 17 marlas of land situated in Mohali village, Tehsil Kharar, District Ropar in Punjab for public purpose. The Collector made his award under s. 11 of the Act on 1.8.1970. He issued notice under s. 12(2) and it was received by the respondent on 22.9. 1970, He appeared and received compensation under protest on 29.9.1970.

Thereafter, he made an application under s. 18 on 21.1.1971 seeking reference to the Civil Court. The Collector by his proceedings dated 12.1.1973 had rejected the application as being barred by limitation, Calling in question the order, the respondent filed revision in the High Court under s. 15 as provided under the local Amendment Act, 1954 by sub-s.(3) of s. 18 of the Act. The High Court allowed the revision holding that though the respondent had received the notice on September 22, 1970, the notice did not contain all the details as to how market value of the land was evaluated; the respondent was not in a position to know the determination of the compensation for making an application for reference under s. 18. Therefore, it is not a proper notice and the limitation prescribed under s. 18(2) has no application.

2. The only question that arises for consideration is whether the High Court was right in its conclusion that the notice issued under s. 12(2) should contain all the details of the award. Section 11 of the Act contemplates that while making the award the Collector needs to determine (i) the true area of the land; (ii) the compensation which in his opinion should be allowed for the land; and (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

3. Section 12 provides that the award shall be filed in the Collector's office and shall, except as provided in the Act, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested. Sub-s.(2) of s. 12 mandates that the Collector "shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made".

4. Section 18 of the Act gives right to the owner or interested person who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

Sub-s.(2) of s-18 is relevant which reads thus:

(2)The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made, -

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under s. 12, sub-s.(2), or within six months from the date of the Collector's award, whichever period shall first expire.

5. It would thus be clear that the interested person who had received the compensation under protest is required to state in his application for reference the grounds on which he objects to the compensation awarded by the Collector, within six weeks from the date of the award when either he was present or was represented by a counsel or agent, or within six weeks from the date of the receipt of the notice from the Collector sent under s. 12(2), or within six months from the date of the award made by the Collector whichever period should first expire. In this case since the respondent had admittedly received the notice from the Collector under s.12(2) on September 22, 1970, by operation of first part of clause (b) of the proviso to sub-s.(2) of S. 18, the respondent was enjoined to make the application under s. 18 within six weeks from the date of the receipt of the notice. Since admittedly, he did not make the application within six weeks, it was barred by limitation.

6. The question then is whether the notice under s.12(2) is a valid notice. From a conjoint reading of ss. II and 12, it is clear that notice is only an intimation of making of the award requiring the owner or interested person to receive compensation awarded under s. 11. On receipt of the notice, if the interested person receives compensation without protest, obviously no reference need be made. The determination of compensation becomes final and binds the parties. When he receives the compensation under protest as contemplated under s.31 of the Act, the need to make the application for reference under S.18(1) would arise. At that juncture it will be open to the interested person either to make inspection of the award which was conclusive between him and the Collector by operation of sub-s.(1) of s. 12, or seek a certified copy of the award from the Collector and the contents. Thereon he could make necessary objection for the determination inter alia, of compensation for the land. It is not necessary that the notice should contain all the details of the award including his consideration and its manner of determination of the compensation as opined by the learned Judge of the High Court. It is not incumbent that the interested person should immediately make the reference application on his receiving compensation under s.31. In other words receipt of the amount and making the reference application are not simultaneous. The statutory operation of limitation mentioned by s. 18(2) does not depend on the ministerial act of communication of notice in any particular form when the Act or Rules has not prescribed any form. The limitation begins to operate from the moment the notice under s.12(2) is received or as envisaged by s. 18 (2).

7. The notice in the present case contained the amount awarded. The area acquired was not in dispute. Under these circumstances, the learned Judge was clearly in error in holding that since the notice did not contain all the details of the consideration and as to how the compensation has been determined the notice was not a proper notice and therefore limitation did not begin to run from the

date of the receipt of the notice and thereby the rejection of the application was not legal.

8.The appeal is accordingly allowed. The order of the High Court is set aside. But unfortunately, in the circumstances the respondent lost his right of reference and we are helpless. No costs.