

Jugal Kishore and ors. Vs. the Improvement Trust and ors.

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Court : Punjab and Haryana

Decided On : Aug-10-1990

Reported in : (1991)99PLR386

Judge : A.L. Bahri, J.

Acts : Punjab Town Improvement Act, 1922 - Sections 59

Appeal No. : Regular First Appeal No. 1921 of 1990

Appellant : Jugal Kishore and ors.

Respondent : The Improvement Trust and ors.

Advocate for Def. : None

Advocate for Pet/Ap. : H.S. Kathuria, Adv.

Disposition : Appeal dismissed

Judgement :

A.L. Bahri, J.

1. Improvement Trust, Bhatinda acquired some land. There was some dispute between the land-owners which was referred to the Tribunal constituted under the Punjab Town Improvement Trust Act for decision (District Judge, Bhatinda). As is apparent from the order passed by Tribunal such a reference was made under

Section 30 of the Land Acquisition Act. The Tribunal disposed of the matter vide order dated October, 3, 1989. Some of the land-owners Jugal Kishore and others preferred Regular First Appeal against the said judgment. Registry, took up an objection that the Regular First Appeal was not maintainable against the order of the Tribunal. However, counsel for the appellants insisted that appeal was not maintainable. That is how the matter has been put up before the Court.

2. Section 59 of the Punjab Town Improvement Act reads as under:- .

'Section 59 ;

For the purpose of acquiring land under the Land Acquisition Act, 1894 for the trust;-

(a) the tribunal shall (except for the purposes of Section 54 of the said Act) be deemed to be the Court, and the president of the Tribunal shall be deemed to be the Judge, under the said Act,

(b) the said Act shall be subject to the further modification indicated in the Schedule to this Act;

(c) the president of the tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the production of documents, by the same means and (so far as may be) in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure, 1908; and

(d) the award of a tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894, and shall be final.'

3. Sub-clause (d) of Section 59 of the Act aforesaid makes it clear that the award of the Tribunal shall be deemed to be an award of the Court under the Land Acquisition Act and shall be final. There is no other provision of the Punjab Town Improvement Act providing appeal or revision against the award of the Tribunal to the High Court.

4. It is not disputed that under the Land Acquisition Act, if award had been made by the District Judge (Court) an appeal could be filed in the High Court. Such an

award could be made either on reference made either Under Section 18 or Under Section 30 of the Land Acquisition Act. Shri H. S Kathuria, Advocate, has argued that any order made on reference Under Section 30 of the Land Acquisition Act determining title of different land owners of the land acquired would amount to a decree and as such would be appealable In support of his contention, he has referred to :-

(1) Mt. Bhagwati v. Mt. Ram Kali., A.I. R. 1933 P. C. 133.

(2) Bai Lalita v. Shardaben and Ors., A. I. R. 1970 Guj 37.

(3) Velappa Gounder v. Nachimuthu Gounders, A. I. R. 1973 Mad. 449.

(4) Loomchand Sait v. The Revenue Divisional Officer., A. I. R. 1975 Mad. 177.

(5) Custodian, Evacuee Property v. Amar Naths., A.I. R. 1981 J. & K. 88.

5. After going through the aforesaid judgments, it has been noticed that all these cases were under the Land Acquisition Act and not under any other special Statute like the Punjab Town Improvement Act. Section 59 of the Town Improvement Act as reproduced above makes the award of the Tribunal as final, there being no other provision for appeal being made in the Statute By analogy the right of appeal cannot be conferred. Appeal has always been a statutory right. I hold that the appeal is not maintainable and reject the appeal.

6. On the request of counsel for the appellants, it is ordered that the Court fee paid be refunded.