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Union of India Vs. Sahdev and Behari and ors.

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Court : Delhi

Decided On : May-03-1976

Reported in : AIR1977Delhi10; 12(1976)DLT713

Judge : B.C. Misra, J.

Acts : Land Acquisition Act, 1894 - Sections 9

Appeal No. : Civil Revision Appeal No. 258 of 1975

Appellant : Union of India

Respondent : Sahdev and Behari and ors.

Advocate for Pet/Ap. : Rekha Sharma,; Urmila Kapoor and; R.S. Chaudhary, Advs

Judgement :

B.C. Misra, J.

(1) This revision petition has been filed under section 115 of the Code of Civil Procedure, by the Union of India against the order of the Additional District Judge, dated 10th December, 1974, by which he has held the claim of the respondents to be not barred by the sub-section (2) of section 25 of the Land Acquisition Act, I of 1894, (hereinafter referred to as the Act).

(2) The material facts of the case are that on an award made by the Collector offering compensation, the respondents had asked for enhancement had a reference to be made under section 18 of the Act to the District Court. When the matter came up for trial before the court, an objection was raised by the Union of India that since the respondents before me had failed to specify their claim under section 9 of the Act in spite of notice having been served on them, the claim was barred by section 25(2) of the Act. It appears and is not disputed that after service of a notice under section 9 the respondents did file a claim stating that they be paid the market value of the land. It is significant to notice that they did not mention therein the specific market value in Rupees and this gave rise to the controversy, which led to the framing of the following issue by the court below, viz. :-

'WHATis the effect of petitioners not claiming any specific rate of compensation before the land Acquisition Collector in this case ?'

The issue has been decided in favor of the respondents and the court has held that this was not a case of deliberate refusal to comply or intentional inaction or omission on the part of the respondents and so the claim was not barred by sub-section (2) of section 25 of the Act.

(3) The material provisions of law are contained in section 9 and 25 of the Act, which may, for the sake of convenience be reproduced :

'9.(1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interest in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector, at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the

measurements made under section

8. The Collector may in any case require such statement to be in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf within the revenue district in which the land is situated.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place or business and registered under part Iii of the Indian Post Office Act, 1866.

25.

(1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section

11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) .to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed the amount awarded by the Collector.'

The counsel for the respondents has submitted that it was enough for the respondents to mention in the claim that they may be paid the market value of the land, since this is precisely what is admissible to be paid to the respondents under

section 23 as well as section 15 of the Act. In my opinion, the contention of the counsel for the respondents is not correct. Section 9(2) requires the parties to state the nature of their respective interests in the land as well as the amount and particulars of their claims to compensation. Section 25(1) makes the position clearer. It provides that when the applicant has made a claim to compensation the amount awarded to him by the court shall not exceed the amount so claimed or be less than the amount awarded by the Collector. There is, thereforee, no doubt that the claim that has to be made by .the party under section 9 must be expressed in Rupees and not vaguely as the market value. Miss Rekha Sharma has cited, Chigurupati Subbanna v. District Labour Officer, Sri Lakshmi Narasinha v. Revenue Divisional Officer, and A.P.S. Karuppaiah Nadar v. Special Deputy Collector for L.A, to support her contention that the submission of the counsel for the respondents is not correct. In Chigurupati Subbanna's case, it was held though under section 9(2) of the Act, the claimant was not required necessarily to make his claim in writing so long as he made a claim for compensation, still what the Act did require was that there should be a specific claim namely a claim which stated in rupees the value the claimant placed upon his property. The authority further laid down that where there had been no such claim the provision of section 9(2) could not be said to have been complied with. The rule of law laid down by the High Court of Madras in the aforesaid decision has been followed by it in the two subsequent decisions mentioned above. In Orient Bank of India v. Secretary of State, it was held that unless and until the claimant claimed specific amount under section 9, his placing of uncertified copy of the sale deed did not constitute compliance with section 9 and as such section 25 of the Act barred the claim. In this authority, it has been further observed that the District Judge had not acted under the third sub-section of section 25 and, thereforee, under the second clause of that section he could not award a sum exceeding the amount awarded by the Collector. The contention of the counsel for the respondents has, thereforee no force and is rejected.

(4) This, however, does not put an end to the controversy. In a reference under section 18 of Act made by the respondents, a specific amount has been claimed. It was the subject matter of the reference by the Collector to the court under section 19 of the Act. Moreover, the court below has, in the circumstances of the case,

given the opinion that there was sufficient reason for the respondents before me not to make the claim in accordance with law and as such it exercised powers under Sub- section (2) of section 25 of the Act. The court below relied upon Special Land Acquisition Officer v. Slanagouda Patil, where it is observed :

'WHEREthe claimant, who failed to file his claim in response to a notice under section 9, stated that he was an illiterate person, that he was not aware that objection was required to be filed and that nobody had explained to be him the penal consequences of the omission, this would be a sufficient reason within sub-section (3). The claimant in such cases should not be deprived of his right to claim enhancement of compensation unless there is proof of deliberate refusal or omission, or negligence or want of good faith on his part.'

and further

'WHEREthe lower court has considered the Explanationn offered by the claimant for his failure to file his claim statement after service of notice under section 9 of the Act and has held that there was sufficient reason for such failure, the High Court will not interefere with the discretion exercised unless it appears that in exercising its discretion the lower court has acted unreasonably or capriciously or has ignored relevant facts.'

In the circumstances of the case, I am of the view that the court has exercised its discretion in accordance with law and the same does not suffer from any jurisdictional error or legal infirmity and does not call for interference in exercise of powers of this court under section 115 of the Code of Civil Procedure. There is no doubt that the respondents were diligent in pursuing the claim for enhancement and they lodged their claim under section 9 as well as made an application under section 18 of the Act. They knew that they would be entitled to get only the market value of the land, which is to be determined in accordance with the provisions of law and no more, besidesinterest and solarium. As such their failure to strictly comply with the letter of law to prefer a specific claim under section 9 in Rupees was a technical lapse which the court below has held as not sufficient to debar their claim. In the circumstances of the case, I do not find any valid reason to differ from the reasoning or conclusion of the court.

(5) As a result, I find that there is no merit in the revision and dismiss the same. Costs of the revision will be costs in the cause.

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