

Bhagwan Das Etc. Vs. Union of India

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Court : Delhi

Decided On : Sep-14-1979

Reported in : AIR1980Delhi197; 1980RLR169

Judge : Avadh Behari Rohtagi, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 6, Rule 17; Land Acquisition, Act - Sections 18

Appeal No. : Regular First Appeal No. 82 of 1973

Appellant : Bhagwan Das Etc.

Respondent : Union of India

Advocate for Pet/Ap. : Jai Ram Singh and; Rajeev Nayar, Advs

Judgement :

Avadh Behari Rohtagi, J.

(1) In due course L.A. Collector made the award. But as there was dispute between interested persons regarding payment of compensation Collector referred the dispute to Land Acquisition Judge u/s 30 & 31 of the Act.

(2) The appellant Bhagwan Dass and Kirpa Ram (Kirpa Ram s/o Molar) were declared as the bhumidars of the land acquired by the Government by the

Additional District Judge by order dated November 6, 1970 made on the reference under s. 30 and 31 of the Act. There were other claimants also. Kirpa Ram and Chandgi Ram son of Thakur Singh claimed to be the owners. They claimed compensation on the ground of ownership. Then there were Ranbir Singh and Randhir Singh sons of Chandgi Ram. They laid claim to compensation on the basis of possession. After an enquiry into the respective claims of all the interested persons the land acquisition Judge came to the conclusion that Bhagwan Dass and Kirpa Ram were the bhumidars. He found in their favor and ordered that compensation be paid to them in respect of the three khasra numbers, namely, fields No. 105, 314/1 and 255.

(3) To recall the events. After the Collector had made the award Bhagwan Dass and Kirpa Ram made a reference petition on April 14, 1967 under s. 18 of the Act. In this they claimed enhancement of compensation. They claimed compensation at the rate of Rs. 10,000.00 per bigha for the whole of their land acquired under the award. The Collector had awarded them compensation at the rate of Rs. 1,200.00 for block A and Rs. 800.00 for block B per bigha.

(4) In the schedule to this reference petition the present appellants, Bhagwan Dass and Kirpa Ram mentioned the khasra numbers for which they claimed enhancement as follows : Khasra no. 105 (10 bigha 14 bi.); Khasra no.314/1 (43bi. 12 bi.); Khasra no. 1015 (1 bigha 12 biswas).

(5) The Collector sent the reference petition to the court along with his statutory statement under s. 19 of the Act. In this statement the Collector did not dispute the acquisition of Khasra No. 105 and 314/1 nor their measurement as shown by the appellants. But regarding khasra No. 1015 he said that that khasra number had not been acquired under the award.

(6) On January 13, 1971 Bhagwan Dass and Kirpa Ram made an application under O. 6 r. 17 and s. 151 of the Code of Civil Procedure. They said that khasra No. 1015 had been wrongly included and in its place khasra No. 255 measuring 26 bighas 4 bids was may be allowed to be added. The application was opposed by the Union of India. The learned Additional District Judge by order dated April 29, 1971 dismissed the application. He took the view that to allow the amendment

would be enlarging the scope of the reference petition which was not permissible in law.

(7) Thereafter the reference for enhancement was decided by the Judge. He increased the compensation in respect of khasra Nos. 105 and 314/1. But in respect of khasra No. 255 he made no enhancement on the ground that it had not been included in the reference petition and the application for its amendment had been dismissed.

(8) The appellants, Bhagwan Dass and Kirpa Ram have brought this appeal from the order dated June 6, 1972, claiming further enhancement. They claim Rs. 5,000.00 per bigha.

(9) The first question raised in the appeal is about the validity of the order dated April 29, 1971 refusing leave to amend the reference petition. The short point is : Ought the appellants be allowed to substitute khasra No. 255 measuring 26 bighas 4 bids was in place of khasra No. 1015 measuring 1 bigha 12 bids was Counsel for the Union of India contends that this amendment cannot be allowed because it will mean enlarging of the scope of the reference. I do not agree. This is not a case of enlargement of the scope of reference. It is a case of correction of a mistake.

(10) It is not disputed that Khasra No. 255 has been acquired, nor the fact that it measures 26 bighas 4 biswas. Instead of khasra No. 255 the appellants had wrongly written khasra No. 1015 and given a wrong measurement. But what has to be remembered is that in their reference petition dated April 14, 1967, they had said in the prayer clause that they claimed compensation at the rate of Rs. 10,000.00 per bigha 'for the whole of this land acquired under the above said award.' Now a claimant before the Collector is required to make a written application under s. 18 of the Act. In that petition he has to set out the ground on which he takes objection to the award. He may object to the (i) measurement of the land (ii) the amount of compensation, (iii) the persons to whom it is payable, (iv) the apportionment of the compensation among the persons interested. All that he has to specify is that he takes the objection to the award on one or more of these four grounds enumerated in the Act. He is not required to specify in the

reference petition the particulars of the land acquired. That is a matter fully within the knowledge of the Collector. He knows what land he has acquired of the claimants. Under s. 8 of the Act he measures the land and makes a plan of the acquired land. Under s. 19 he submits a statement for the 'information of the court.' In this statement he is required to state among other things 'the extent of the land with particulars.' It is the duty of the Collector, therefore, to state full and true particulars of the land acquired. It is not the duty of the claimant. All that the claimant has to say is that he does not accept the award and that he takes objection to the amount of compensation offered to him and that the matter be referred for the determination of the court. This is all that he has to say. No more is expected of the expropriated owner.

(11) In the present case there has been a denial of justice. The Collector did not do his duty. In their written application the owners had raised objection to the amount of compensation offered by the Collector for their entire acquired land. It was therefore the duty of the Collector to give full particulars of the 'extent of the land' for the 'information of the court' under s. 19 of the Act. And if it is this mistake of the Collector that deprived the owners of their due compensation (See : *Union of India v. Sheruddin*, 1970 Plr 29 .

(12) If there is a mistake in the particulars of the land furnished by the claimant, as in the present case, then they can be allowed to be corrected in the interest of justice. The claimant's claim for enhancement cannot be denied because he has given wrong particulars or made a clerical slip or error. If amendment is refused on the technical ground that the scope of reference will be enlarged thereby, as was done here, the ends of justice will be defeated. For an accidental slip or omission a man will lose the land as well as the compensation therefore.

(13) What has to be seen is the ground of objection. That determines the scope of the reference. In the present case the ground of objection to the award was the amount of compensation. In other words, the reference was for enhancement of compensation for 'the whole' of the appellants' 'land acquired under the award.' The appellants did not restrict their claim to any particular khasra number. The scope of the reference will be enlarged if, for example, in addition to the

enhancement of , compensation the appellants were to be allowed to object to the award as to measurement, or as to the persons entitled to compensation or apportionment. But that is not the case here. The appellants tools only one objection to the award. This was to the amount of compensation awarded to them. By amendment they were not changing the nature of their objection to the award. The objection remained the same. Only wrong particulars of the land were sought to be corrected by giving the right particulars. This was all.

(14) That the power of amendment can be exercised in a proceeding of section 18 of the Act in cases of clerical errors if the nature of the claim is unaltered is now recognised in a division bench decisions of this court. (See : R.P. Condui v. Union of India, 2nd 1978 1 Del 513. Judges are strong advocates of amendment. Because they want to do complete justice. Take this very case. The Collector did not discharge his statutory duty under a. 19. He did not give full 'extent of the land' of the appellants acquired by him under the award. In the result the Judge made no enhancement for khasra No. 255. Refusal to exercise the power of amendment in a case such as this is to misuse that power.

(15) For these reasons I set aside the order of the Additional District Judge dated April 29, 1971. I allow the application for amendment. The appellants are allowed to correct their Khasra number 1015 by substituting in its place khasra No. 255 (26 bighas 4 biswas).

(16) [IN para 16, Compensation was enhanced on the basis of Munshi (deceased) v. Union of India Rfa 176/70 D./3.9.79.]