

Amar Singh Vs. Union of India

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Court : Delhi

Decided On : Feb-09-1973

Reported in : AIR1974Delhi34; 9(1973)DLT384; 1973RLR181

Judge : B.C. Misra, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 18

Appeal No. : Civil Revision Appeal No. 207 of 1968

Appellant : Amar Singh

Respondent : Union of India

Advocate for Pet/Ap. : D.K. Dhamija, Adv

Judgement :

B.C. Misra, J.

(1) This is a revision petition filed by the petitioner against the order of Shri J. N. Verma, Additional District Judge Delhi dated 29th January, 1968.

(2) The material facts giving rise to the revision are that an award was announced on 7th of January 1963. The petitioner Amar Singh Claimant No. 17 did not accept the award and on 15th February, 1963 filed an application for reference being made to the Court under section 18 of the Land Acquisition Act. Thereafter he

received the amount of compensation without endorsing a protest on the receipt of the amount. The Additional District Judge on receipt of the reference issued notices to the parties. The Union of India raised an objection in respect of the petitioner (Amar Singh claimant No. 17) that since he had accepted the compensation without protest, his name may be deleted from the reference petition, as his claim for enhancement could not be entertained. This objection prevailed with the court below and his name was deleted.

(3) I have heard Mr. Desraj Dhamija counsel for the petitioner and no one has appeared on behalf of the Union of India to oppose the revision. I have considered the matter and in my opinion the impugned order is not sustainable.

(4) The opening part of section 18 of the Land Acquisition Act reads as follows: 'Section 18(1) Any person interested 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. (2) The application shall state the grounds on which objection to the award is taken : Section 31 sub-sections (1) (2) and the three provisions of the Act read as follows 1. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next subsection. (2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the court to which a reference under section 18 would be submitted. Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount : Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18. Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person

lawfully entitled thereto.'

(5) An analysis of the aforementioned provisions of law shows that the condition precedent for making of an application for reference to the Court is that a person must be Interested and must not have accepted the award. Section 31 makes statutory provision for a party to receive the amount due under the award under protest if he wants to claim enhancement by reference to the Court. If he does not express the protest, he would by acceptance of the amount of compensation be deemed to have accepted the award and thereby disentitle himself to apply for the reference. At the time the present petitioner preferred his application under section 18 he had not accepted the payment of compensation either with or without protest, nor had he done anything to show that he had accepted the award. His application for reference was therefore perfectly valid. After having applied for the reference, it was certainly not necessary for the petitioner to subsequently endorse expressions of his protest against the award on every occasion or on every material paper coming up before the Collector or the Court. The second proviso to sub-section 2 of section 31 of the Act which has been relied upon by the Court below only applies to those cases where before the making of the application for reference a party receives the amount without registering protest. But obviously this proviso is not attracted to a case where the application for reference has already been made. In such cases it cannot be said that the acceptance of the compensation amounted to acceptance of the award and the party had waived his right to apply for its enhancement by reference to the Court. In this case the receipt of the amount is certainly subject to the application for reference moved by the party. The impugned order is not correct and I set it aside and direct the court below to include the petitioner as a claimant in the reference and decide the reference according to law. Revision is allowed and since there is no appearance on behalf of the respondent there will be no order as to costs.