

PETITIONER:
THE STATE OF PUNJAB & OTHERS

Vs.

RESPONDENT:
SHARAN PAL SINGH & OTHERS

DATE OF JUDGMENT 14/12/1995

BENCH:
VENKATASWAMI K. (J)
BENCH:
VENKATASWAMI K. (J)
VERMA, JAGDISH SARAN (J)

CITATION:
1995 SCALE (7)310

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

K.Venkataswami, J.
Leave granted.

By the impugned orders dated 11.10.1990, the High Court of Punjab & Haryana at Chandigarh has held that part of the land acquisition proceedings has lapsed for non-compliance of Section 11A of the Land Acquisition Act, 1894 which requires passing of an award within 2 years from the date of declaration under Section 6 of the Act.

The appellant, State Government, issued notices under Section 4(1) and declaration under Section 6 of the Land Acquisition Act on 1.6.1982 and 17.8.1983 respectively to acquire certain lands. Subsequently, an award was passed by the Land Acquisition Officer on 25.3.1985. The respondents challenged the award contending that the award was not in conformity with Section 11 of the Act inasmuch as the award has determined the compensation for the land only and the amount of compensation regarding the superstructure and trees that were standing on such lands was left to be decided separately. The appellant herein (respondent before the High Court) in its written statement took a stand in the following terms:

"The award is complete with respect of the land. It was specifically mentioned therein that for the structures and trees the award will be announced separately, because the assessment for the structures and trees standing thereon had not been received from the respective departments."

However, the High Court has accepted the contention advanced on behalf of the respondents herein (petitioners before the High Court) and held as follows:

"The Land Acquisition Collector made the award on March 25, 1985 relating to the land and not for the super-structures

and trees standing thereon. The award rendered by the Land Acquisition Collector was not the one envisaged under Section 11 of the Act. The same envisages the award for the Unit, namely, the land, buildings and super-structure and standing crops and trees thereon. The acquisition proceedings would lapse in so far as the award relates to that portion of the acquired land on which the super-structures and trees were standing on the date the award has been made."

Aggrieved by the above orders of the High Court the present appeals are filed.

An identical issue came up before this Court in Judgment Today 1995 (8) SC 599 Mohanji & Another vs. State of U.P. & Others wherein it was held on 4.8.1995 as follows :

"A perusal of the award dated 23.9.1986 leaves no doubt that the compensation awarded therein is for the entire land measuring 0.99 acres bearing Plot No.1311 belonging to the appellants which was acquired in the proceedings. It also appears from the award that the valuation report which had been sought from the Public Works Department had not been received and, therefore, the Land Acquisition Officer contemplated determination of compensation for the building in addition to the compensation awarded for the entire land being made on a subsequent date after the expiry of the specified period of two years under Section 11 of the Act. The question is whether in these circumstances it can be said that no award had been made under Section 11 of the Act in the proceeding for the acquisition of the land?

It is no doubt true that the entire award which is contemplated under Section 11 of the Act by virtue of the prescription in Section 11A has to be made within the period of two years failing which the entire proceeding shall lapse. The question is whether it can be said in the present case that no award has been made under Section 11 of the Act in this proceedings? In our view it cannot be said that no award under Section 11 has been made for the land acquired. Admittedly, compensation has been determined in the award so made for the entire area of 0.99 acres. In view of the fact that no piecemeal award by making a subsequent award after the expiry of the period of two years is contemplated in law, the award dated 23.9.1986 must be construed as the whole award made under Section 11 awarding compensation for the entire area of 0.99 acres with no compensation was awarded for the building. The appellants, had the right to claim compensation for the

building by seeking a reference under Section 18 of the Act treating the award as one in which compensation had been determined and awarded only for the entire land measuring 0.99 acres but no compensation was awarded for the building therein. The appellants had the remedy to claim compensation for the building in accordance with law treating the award made as not awarding any compensation for the building. That is, however, a different matter and it does not require any further consideration in this context. It is sufficient to say 'that the award dated 23.9.1986 made within the period specified in Section 11A of the Act must be construed as an award under Section 11 in the proceedings for acquisition of the appellants' land bearing Plot No. 1311 having a total area of 0.99 acres. The contention that the entire proceedings for acquisition of the land has lapsed by virtue of Section 11A cannot, therefore, be accepted."

The ratio as extracted above squarely applies to the facts of this case. Accordingly, we hold that the impugned award dated 25th March, 1985 within the period specified in Section 11A of the Act must be construed as an award under Section 11 in the proceedings for the acquisition of the lands in question and the contentions to the contrary cannot be sustained. However, we leave open the rights of the respondents to claim compensation for the buildings/trees in accordance with law treating the award already made as one not awarding any compensation for the buildings/trees.

In the result, the appeals are allowed and the orders of the High Court under appeal are set aside. No costs.

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