

Before I. S. Tiwana, J.

BAGH SINGH AND OTHERS,—*Petitioners.*

versus

THE SPECIAL LAND ACQUISITION COLLECTOR, JALANDHAR
AND ANOTHER,—*Respondents.*

Civil Revision No. 1601 of 1983

October 5, 1983

Land Acquisition Act (I of 1894)—Sections 18 and 53—Code of Civil Procedure (V of 1908)—Order 1 Rule 10—Acquisition of land in the joint ownership of several persons—Application for reference under section 18 made by some of the co-sharers—Other co-sharers applying to the District Judge for being impleaded as parties—Such co-sharers—Whether could be impleaded.

Held, that if the property acquired is joint and the co-owners had no distinct and specified shares therein, then a reference under section 18 of the Land Acquisition Act, 1894 by one of the co-owners for the enhancement of compensation awarded by the Land Acquisition Collector will ensure for the benefit of the other co-owners as well. In such a case it can safely be concluded that the co-owner who is wanting enhancement in the compensation was also acting on behalf of the other co-owners because their interests are joint and indivisible. Until the shares of the co-sharers are specified, the co-sharer filing the application under section 18 of the Act will be deemed to be acting on behalf of all the co-owners in the property. Even an award passed as a result of such an application under section 18 of the Act would ensure for the benefit of all the co-sharers. Thus, the co-sharers who even in the absence of mentioning of their names in the reference are entitled to all the benefits arising from the Award itself cannot be denied the right to be impleaded as parties to the litigation.

(Para 3)

Held, that an application under section 18 of the Act is to be equated with a suit, an applicant with a plaintiff and an award with a decree. Section 53 of the Act specifically attracts the applicability of the provisions of the Code of Civil Procedure so far as these are not inconsistent with anything contained in the Act to all the proceedings before the Land Acquisition Court. Reference under section 18 of the Act is undoubtedly a proceeding under the Act and, thus, in the light of section 53, the provisions of the Code would certainly apply to these proceedings. In the Land Acquisition Act there is nothing inconsistent with the provisions of Order 1 Rule 10 of the Code, and therefore, the Land Acquisition Court in exercise of its powers under this provision read with section 53 of the Act can certainly add a person as a party if it appears to it just to do so

or to effectually and completely adjudicate upon the questions involved in the case.

(Para 4).

Petition under Section 115 C.P.C. for the revision of the order of the Court of Shri Harnam Singh, Additional District Judge, Faridkot, dated 10th May, 1983 dismissing the applications.

Civil Misc. No. 2798-CII of 1983.

Application under section 151 C.P.C. praying that during the pendency of the revision petition, the proceedings pending in the trial court be stayed.

Gur Rattan Pal Singh, Advocate, for the Petitioner.

H. S. Brar, Advocate, for No. 1.

JUDGMENT

(1) The controversy need to be settled in these five civil revision petitions Nos. 1601, 1602, 1603, 1604 and 1605 of 1983) is the same and, thus, these are being disposed of together.

(2) The prayer of the petitioners under Order 1, Rule 10 Code of Civil Procedure, to be impleaded as parties to the respective References now pending before the Land Acquisition Court, Faridkot has been declined by the said Court primarily on the grounds—

(i) that they had made no application under section 18 of the Land Acquisition Act (for short, the Act) to the Collector and

(ii) there is no provision in the Act under which any land-owner can be impleaded as a party to a reference by the Court.

It may be pointed out here that the uncontroverted case pleaded by the petitioners is that the acquired land was from their respective joint Khatas in which they were co-sharers along with the persons who actually made the applications under section 18 of the Act. They also maintain that though the individual co-sharers who had filed and signed those applications under section 18 of the Act did so as their authorised agents, yet even in the absence of such an

Bagh Singh and others v. The Special Land Acquisition Collector, Jalandhar and another (I. S. Tiwana, J.)

authorisation they are entitled to be joined as parties to the litigation pending in the lower court. After hearing the learned counsel for the parties I find that the whole approach adopted by the lower court is fallacious and the common impugned order deserves to be set aside.

(3) It has repeatedly been ruled by this Court that if the property acquired is joint and the co-owners have no distinct and specified shares therein, then a reference under section 18 of the Act by one of the co-owners for the enhancement of the compensation awarded by the Land Acquisition Collector will ensure for the benefit of the other co-owners as well. In such a case it can safely be concluded that the co-owner who is wanting enhancement in the compensation was also acting on behalf of the other co-owners because their interests are joint and indivisible. Until the shares of the co-sharers are specified, the co-sharer filing the application under section 18 of the Act will be deemed to be acting on behalf of all the co-owners in the property. Even an award passed as a result of such an application under section 18 of the Act would enure for the benefit of all the co-sharers (See *Ch. Kehar Singh vs. Union of India* (1), *State of Haryana vs. Bishen Singh* (2) and *Punjab State vs. Messrs. Globe Motors Ltd* (3). In the face of this settled legal position, how can the petitioners who even in the absence of mentioning of their names in the Reference are entitled to all the benefits arising from the award itself be denied the right to be impleaded as parties to the litigation at a stage prior to the passing of the said award. As per the observations in the above noted judgments, the petitioners have virtually to be deemed to be parties to those References. Their innocuous prayer is only that their names be so mentioned. This cannot possibly be denied to them.

(4) So far as the other aspect of the matter that in the absence of any specific provision in the Act, the petitioners cannot be added as parties to the References pending before the lower court is concerned, the same though hardly arises in the instant case in the light of the above-noted conclusion of mine yet I find that the lower court appears to be completely oblivious of the provision, of section 53 of the Act and also some of the pronouncements of this Court wherein

(1) AIR 1963 Punjab 490.

(2) 1981 P.L.J. 40.

(3) 1981 P.L.J. 73.

it has been held that an application under section 18 of the Act is to be equated with a suit, an applicant with a plaintiff and an award with a decree (See *Phuman vs. The State of Punjab* (4), *Union Territory of Chandigarh through the Land Acquisition Collector, Chandigarh vs. Sarlara Singh and others* (5). Section 53 of the Act specifically attracts the applicability of the provisions of the Code of Civil Procedure so far as these are not inconsistent with anything contained in the Act to all the proceedings before the Land Acquisition Court. Reference under section 18 of the Act is undoubtedly a proceeding under the Act and, thus, in the light of section 53, the provisions of the Code of Civil Procedure would certainly apply to these proceedings. I am quite conscious of the fact that in some judgments, such as *Mahananda Roy vs. Sarish Chandra Tewari* (6), *Md. Ibrahim Sahib vs. Land Acquisition Officer* (7) and *Municipality, Nalgonda vs. Hakim Mohiuddin* (8), it has been held that a person whose name is not mentioned in the Reference made by the Collector cannot be added as a party to the proceedings before the Court, yet in a good number of other judgments, such as *Kishen Chand vs. Jagannath Parshad* (9), *Padmanabha Menon vs. Bhaskara Menon* (10) and *Mt. Sakalbaso Kuer vs. Brijendra Singh* (11), it has been ruled that in the Land Acquisition Act, there is nothing inconsistent with the provisions of Order 1, Rule 10, Code of Civil Procedure, and thus, the Land Acquisition Court in exercise of its powers under the later-mentioned provision read with section 53 of the Act can certainly add a person as a party if it appears to it just to do so or to effectually and completely adjudicate upon the questions involved in the case. Within this Court also it has been held in *Phuman Singh's case* (supra) in the context of Order 22 of the Code of Civil Procedure that there is no inconsistency between the provisions of this Order and sections 20, 21, 23 and 26 of the Act. On a parity of reasoning given in this judgment, the Land Acquisition Court can, to my mind, invoke its powers under Order 1, Rule 10, Code of Civil Procedure, to add a party to the proceedings pending before it. Otherwise also, I find in the light of the provisions of section 20 of the

(4) 16(1963) ILR (Punjab) 442.

(5) RFA 148 of 1980 decided on 29th May, 1981.

(6) 7(1910) Indian cases 10.

(7) 1958 Andhra Pradesh 226.

(8) 1964 Andhra Pradesh 305.

(9) ILR (25) Allahabad 133.

(10) 1963 Kerala Law Journal 724.

(11) AIR 1967 Patna 243.

Manohar Lal v. Financial Commissioner, Haryana and others
(J. M. Tandon, J.)

Act that if the Land Acquisition Court is required to cause a notice specifying the day on which it will proceed to determine the objection and directing all "persons interested" to put in appearance before the Court on that day then how can a person interested with reference to a particular land which has been compulsorily acquired under the Act not come before the Court and claim such notice and be heard.

(5) For the reasons recorded above, I set aside the impugned order and direct the lower court to implead the petitioners as applicants/claimants to their respective References now pending before it. I pass no order as to costs.

N.K.S.