

- (iii) It is only the civil court and civil court alone which has got the power to determine the compensation in reference under Section 18 of the Act. The landowner under the unamended provisions of Section 25 of the Land Acquisition Act could have been bound down to the grant of that much claim which he made in reply to notice under Section 9 of the Land Acquisition Act. Under the amended provisions of the Section 25 of the Act, the landowner cannot be bound down to any claim while giving reply to the notice under Section 9 of the Act.
- (iv) On the analogy of the observations made by the Hon'ble Supreme Court in that *Bhag Singh's case* (supra) no technical view should be taken by the civil court in the land acquisition matters.
- (v) Wherever two views are possible, taking of technical view, as far as possible, should be avoided until and unless such a view is in direct connect with the express provision of the statute. This principle applies with greater force in land acquisition cases where the land is acquired against the wishes of a landowner.

(6) In the light of the observations made above, both the appeals filed by the appellants are allowed with costs and they are held entitled to the grant of compensation at the rate of Rs. 12.50 per square yards. They are also held entitled to the grant of the statutory benefits of the amended provisions of Sections 23(1-A) 23(2) and 28 of the Act on the entire amount.

P.C.G.

Before : J. V. Gupta, J.

ROSHAN LAL MINOR SON OF RAM DIA,—Objector—Petitioner.

versus

KISHAN LAL AND ANOTHER,—Respondent—JD.
Civil Revision No. 1926 of 1988.

8th August, 1989.

Criminal Procedure Code (II of 1974) S. 421—Attachment of immovable property—Powers of Judicial Magistrate stated.

Roshan Lal minor son of Ram Dia v. Kishan Lal and another
(J. V. Gupta, J.)

Held, that the Chief Judicial Magistrate was not competent for attachment or sale of any immovable property under section 421 of the Code of Criminal Procedure. For that purpose he could issue a warrant to the Collector of the District as provided therein.

(Para 4)

Petition Under Section 115 CPC and 227 of the Constitution of India praying that revision petition be allowed, impugned order passed by the authorities below (ignoring the decree and holding that the property can be sold for realization of the amount) be set aside and the attachment of land and subsequent sale as ordered be set aside.

Any other relief, to which the petitioner found entitled to be granted to the petitioner against the respondents.

Claim : Recovery of amount u/s 15(5) of the Payment of Wages Act.

Claim in Revision : For reversal of the order of both the Courts below.

C. B. Goel, Advocate, for the Petitioner.

K. S. Kapoor, Advocate, for the Respondents.

JUDGMENT

J. V. Gupta, J.

(1) This petition is directed against the order of the District Judge, Karnal, dated June 13, 1988, whereby the order of the Chief Judicial Magistrate, Karnal, dated January 4, 1988, ordering the auctioning of the property of the Judgment-debtor was maintained.

(2) The authority under the payment of Wages Act.—*vide* order dated April 30, 1986, adjudged the amount of Rs. 5,200 payable by Ram Dia in favour of Kishan Lal. Kishan Lal applied to the authority alleging that the said Ram Dia has refused to make the payment of the amount in question. Consequently, the authority issued the certificate under section 8.15(5) of payment of Wages Act and transmitted the case to the Court of Chief Judicial Magistrate, Karnal, for realization of the amount from Ram Dia as if it were fine imposed by that Court. For realisation of the said amount the land in the name of Roshan, minor son of Ram Dia was attached. Roshan Lal filed an application under Order 21 Rules 58 and 59, CPC, praying for releasing of the property attached alleging that the land was

owned and possessed by him and not his father Ram Dia. The learned Chief Judicial Magistrate found that Ram Dia was the owner of the property and thus ordered the auction of the property attached. In appeal, the learned District Judge maintained the said order.

(3) Learned counsel for the petitioner submitted that the procedure adopted by the Chief Judicial Magistrate was not warranted under Section 421 of Criminal Procedure Code. According to the learned counsel, thereunder attachment and sale of any movable property belonging to the offender could be ordered but not of any immovable property. For attachment of the immovable property, the Court will issue a warrant to the Collector of the District authorising him to realise the amount as arrear of land revenue from the movable or immovable property or both, of the offender/defaulters. Thus, argued the learned counsel, the procedure adopted by the Chief Judicial Magistrate was not warranted.

(4) After hearing the learned counsel for the parties, I find force in the contentions raised on behalf of the petitioner. The Chief Judicial Magistrate was not competent for attachment or sale of any immovable property under section 421 of the Code of Criminal Procedure. For that purpose he could issue a warrant to the Collector of the District as provided therein.

(5) Consequently, this revision petition succeeds; the impugned orders are set aside. The parties have been directed to appear on September 4, 1989, in the Court of Chief Judicial Magistrate, Karnal. He will issue the necessary warrants to the Collector of the District authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both of the offender/defaulters i.e. Ram Dia as provided under section 421 Cr.P.C.

S.C.K.

Before : J. V. Gupta, J.

SARASWATI AND OTHERS,—*Petitioners.*

versus

HAZARI LAL AND OTHERS,—*Respondents.*

Civil Revision No. 1827 of 1988.

8th August, 1989

Code of Civil Procedure (V of 1908) O. 22 Rl. 4 (As amended by Punjab Government)—Defendant dying during trial—Application for impleading his legal representatives—Dismissal of such application as barred by time—Justification of such an Order.