

APPELLATE CIVIL

Before D. K. Mahajan, J.

SARDARA SINGH AND ANOTHER,—Appellants

Versus

THE STATE OF PUNJAB,—Respondent

Regular First Appeal No. 311 of 1960

November 3, 1969

Land Acquisition Act (I of 1894)—Sections 18, 20(b) and 31(2) Second Proviso—Claimant accepting compensation awarded by Collector without protest—Application for reference under section 18 by such claimant—Whether barred.

Held, that under section 31(2)—Second Proviso read with section 20(b) of the Land Acquisition Act, 1894, there is a clear indication that a person who accepts the award without protest, cannot question it. Moreover, there is no estoppel against a statute. Nor provision exists regarding limitation in section 31 of the Act. That is a matter which is solely within the jurisdiction of the Collector while determining the question, whether a reference should or should not be made. But there is a positive bar to a reference if the amount has been accepted without protest, under section 31(2)—Second Proviso. Even if a reference is made in ignorance of that provision, section 20(b) clearly gives jurisdiction to the Court to non-suit the claimant if he has accepted the amount under the award without protest. (Para 6)

Regular First Appeal from the decree of the Court of Shri Muni Lal, Senior Sub-Judge, with powers under the Act No. 1 of 1894, Ferozepore, dated 16th June, 1960 rejecting the objections of the claimants and dismissing the reference made under section 18 of the Land Acquisition Act.

K. L. SACHDEVA, ADVOCATE, for the Appellant.

B. S. DHILLON, ADVOCATE-GENERAL (PUNJAB) WITH MR. SUKHDEV KHANNA, ADVOCATE, for the Respondent.

JUDGMENT

MAHAJAN, J.—This order will dispose of Regular First Appeal No. 311 of 1960. This appeal is by the claimant, whose lands were acquired for the purposes of Sirhand Feeder Canal under a notification dated the 18th of December, 1957.

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irrespective of the fact, whether the provisions of section 31(2)—Second Proviso or section 20(b) stand in the way; and in support of his contention, he relies upon the following decisions:—

- (1) *Secy. of State v. Bhagwan Prasad and another* (2).
- (2) *Nanak Chand v. Piran Ditta* (3).
- (3) *Kantimalanti Ramamurthi and another v. Special Duty Collector, Harbour Acquisition, Vizagapatam* (4).
- (4) *Lila Mahton v. Sheo Govind Singh* (5).
- and (5) *Hari Krishan Khosla v. State of Pepsu* (1).

(6) After hearing the learned counsel for the parties, I am of the view that the contention of the learned Advocate-General is sound and must prevail. The learned Advocate-General does not contend that the reference before the District Judge was without jurisdiction and could not be entertained. He admits that there was a valid reference to the District Judge. But it is another matter, if a person is precluded by the Statute from contesting the award; and the reason for that is that under section 31(2)—Second Proviso read with section 20(b), there is a clear indication that a person, who accepts the award without protest, cannot question it. Moreover, there is no estoppel against a Statute. There is no provision regarding limitation in section 31. That is a matter which was solely within the jurisdiction of the Collector while determining the question, whether a reference should or should not be made. But there is a positive bar to a reference if the amount has been accepted without protest, under section 31(2)—Second Proviso, and, in any event, even if a reference is made in ignorance of that provision, as it appears from the present case, section 20(b) clearly gives jurisdiction to the Court to non-suit the claimant if he has accepted the award without protest, that is, he has accepted the amount awarded without protest. I see no escape from this conclusion. The view, I have taken of the matter, finds support from the observations of the Calcutta High Court in *Suresh Chandra Roy v. The Land Acquisition Collector, Chinsurah* (6).

(7) For the reasons recorded above, this appeal fails and is dismissed; but there will be no order as to costs.

N. K. S.

- (2) A.I.R. 1929 All. 769.
- (3) A.I.R. 1941 Lah. 268.
- (4) A.I.R. 1927 Mad. 114.
- (5) A.I.R. 1956 Pat. 108.
- (6) A.I.R. 1964 Cal. 283.