

(10) For the reasons recorded above, this writ petition is allowed with costs. The levy of penalty like Rs. 20 per truck per trip at the check-post in the case of the petitioners is quashed with the directions to the respondents to refund the amount of such like penalties charged from the petitioners on their moving an application giving details thereof within a period of 3 months from filing of the application for refund. The costs are assessed at Rs. 2,000, in each of the case.

J.S.T.

Before Jawahar Lal Gupta, J.

JALANDHAR IMPROVEMENT TRUST,—*Petitioner.*

versus

THE PRESIDENT LAND ACQUISITION TRIBUNAL,
JALANDHAR AND OTHERS,—*Respondents.*

Civil Writ Petition No. 9407 of 1991.

May 8, 1992.

Constitution of India, 1950—Art. 226—Joint Writ Petition—Maintainability—Separate awards by Land Acquisition Tribunal—Application for benefit under Section 30 of Land Acquisition Act moved by claimants in each case—Disposed of by separate orders—Petitioner filing one joint writ against all claimants—Not competent—Separate cause of action arises in each case.

Punjab Town Improvement (Act IV of 1922)—Acquisition under Act—Tribunal while granting benefits of interest and sclatium under Land Acquisition (Amendment) Act 1984 by mistake overlooked granting of benefit of Section 30 of Land Acquisition Act—Mistake rectified—Would not amount to review.

Punjab Town Improvement (Act IV of 1922)—Plea that provisions of Land Acquisition (Amendment) Act not applicable to acquisition under Punjab Town Improvement Act—Not tenable.

Held, that there were separate awards by the Tribunal. In each case an application was moved by the claimant/s. These applications have been disposed of by separate orders. The petitioner has filed only one petition challenging all the orders. Most of the orders have not even been produced. The petitioner has a separate cause of action in every case. In this situation, a joint petition against all the claimant/s in whose favour separate orders have been passed is clearly not competent.

(Para 8)

Jalandhar Improvement Trust v. The President Land Acquisition 139
Tribunal, Jalandhar and others (Jawahar Lal Gupta, J.)

Held, that a perusal of the impugned order shows that while granting solatium and interest, the provisions of Amending Act had escaped notice. Apparently, this was an omission. By the impugned order, the mistake has been rectified and the award has been brought in conformity with the provisions of law. Furthermore, supposing the respondents had approached this Court in a petition under Article 226 of the Constitution, the requisite relief could have been granted to them in view of the provisions of the Act. In such a situation, it would not be equitable or fair to deny the relief to them on the hyper-technical ground raised by the learned counsel for the petitioner.

(Para 12)

Further held, that the Apex Court in *Hoshiarpur Improvement Trust v. The President Land Acquisition Tribunal and others* Judgment Today 1990(2) S.C. 567, has rejected a similar contention. Consequently, there is no merit in the contention raised on behalf of the petitioner.

(Para 11)

Petition under Articles 226/227 of the Constitution of India praying that by issuing a writ of certiorari, prohibition of any other writ, order or direction as may be deemed appropriate the awards made in favour of the claimants by respondent No. 1 may kindly be quashed (copy of one of such awards is Annexure P/1).

It is further prayed that records of this case may kindly be summoned and the awards made in all the cases may kindly be quashed; and costs of the petition be awarded to the petitioner.

It is further prayed that during the pendency of the writ petition the operation of all the awards may be stayed.

Application under section 151 C.P.C. praying that the stay granted against the applicant may kindly be vacated. The applicant is prepared to furnish a bond to return the additional compensation due to her under the impugned award of the Tribunal in case it is held by this Hon'ble Court that she is not entitled to compensation as granted by the amended provisions of the Land Acquisition Act.

T. S. Doabia, Advocate, for the Petitioner.

Hemant Kumar Advocate, Ms. Jaishree Thakur, Advocate,
Sarwan Singh, Advocate, for the Respondents.

JUDGMENT

Jawahar Lal Gupta, J.

Improvement Trust Jalandhar is aggrieved by the grant of benefits available under the Land Acquisition (Amendment)

Act, 1984 to respondent Nos. 3 to 29. It has filed the present petition claiming that the awards made in favour of the claimants be quashed. A few facts may be noticed.

(2) The petitioner acquired the land belonging to respondent Nos. 3 to 29. Dissatisfied with the award given by the Collector, the land owners approached the Land Acquisition Tribunal for enhancement of compensation. By separate awards given during the period from November 2, 1982 to May 22, 1985, the Tribunal granted the compensation to the claimants. Thereafter, applications were made for the grant of benefits as admissible under Section 30 of the Land Acquisition (Amendment) Act of 1984. These applications appear to have been allowed by separate orders passed on different dates during the years 1990 and 1991. It is claimed that the Tribunal has erred in enhancing the amount of compensation. The petitioner claims that the awards had become final and could not have been challenged after the lapse of many years. It has been further averred that the respondents were not entitled to the benefits of the Amending Act. It is further claimed that the Tribunal had become *functo officio* after the award.

(3) Written statements have been filed on behalf of some of the respondents. In the written statement filed on behalf of respondent No. 9, it has been averred by way of preliminary objection that the petitioner has no *locus standi* to file this writ petition. Further the maintainability of a petition challenging different awards passed in respect of different claimants has been questioned. On merits, it is claimed that the claimants land-owners are entitled to the benefit of the Amending Act.

(4) A separate written statement has also been filed on behalf of respondent No. 21. It has been *inter alia* averred that the application for amendment of the award was filed by the respondent on August 16, 1986, i.e. within two years of the enactment of the Amending Act. Further it is claimed that in view of the provision of Section 59 of the Town Improvement Act, the provisions of the Amending Act are applicable to the proceedings in question.

(5) I have heard Mr. Tejinder Singh Doabia, learned counsel for the petitioner. Mr. Hemant Gupta and Miss Jaishree Thakur have argued the case on behalf of the respondents. Mr. Doabia has contended that the transitional provisions contained in Section 30 of the Amending Act would only apply where the acquisition has been made under the Land Acquisition Act, 1894. According to the learned counsel, the provision has no application to the acquisition under the Town Improvement Act. Further the learned

counsel has contended that the Tribunal becomes *functio officio* after the passing of the award and has no jurisdiction to review the order already passed. He further contends that the applications moved by the respondents were highly belated and could not have been entertained after the lapse of a long time.

(6) On behalf of the respondents it has been *inter alia* contended that the petitioner has no *locus standi* to file the present petition and that the Tribunal had not reviewed its order, but had merely rectified a mistake. It has also been claimed that the joint petition is not maintainable.

(7) The petitioner has produced the copies of some of the orders passed by the Tribunal as Annexure P1 to P4 with the writ petition. A perusal thereof shows that the Collector had given the award in the year 1976. In pursuance of the reference, the Tribunal had given its award in or about the year 1983. Further the objections as now sought to be raised were, in fact, not raised before the Tribunal. By way of illustration, it may be mentioned that in paragraph 3 of the order at Annexure P.1, it has been categorically mentioned that 'the learned counsel appearing on behalf of the opposing party (the Trust) has not been able to distinguish the case of Raghbir Singh (Supra) and thus he could advance no argument to resist this claim of the applicant'. Similarly in the order dated February 20, 1991 (Annexure P.2) the objections as now sought to be raised do not appear to have been at all pressed into service. In fact, the learned Tribunal has observed that "the learned counsel appearing on behalf of the Jalandhar Improvement Trust is unable to resist these two benefits." Similar is the position in regard to the orders at Annexures P.3 and P.4. In this situation, *prima facie* the petitioner cannot be permitted to raise these contentions for the first time before this Court. It is all the more so in view of the fact that there is no assertion that any of the objections now sought to be raised were at all pointed out to the Tribunal.

(8) Furthermore, even the objection raised on behalf of the respondents that a joint petition is not competent appears to be well-merited. There were separate awards by the Tribunal. In each case an application was moved by the claimant/s. These applications have been disposed of by separate orders. Copies of only four orders have been produced as Annexures P.1 to P.4. The petitioner has filed only one petition challenging all the orders. Most of the orders have not even been produced. The petitioner has a separate cause of action in every case. In this situation, a

joint petition against all the claimant/s in whose favour separate orders have been passed is clearly not competent.

(9) Though the above two grounds are sufficient to dismiss this petition, yet even on merits, the claim of the petitioner appears to be wholly untenable. The contentions raised may be briefly noticed.

(10) Firstly, Mr. Doabia contends that an acquisition made under the Punjab Town Improvement Act, 1922 is not an acquisition under the Land Acquisition Act, 1894 and, therefore, the provisions of the Amending Act are not attracted. He has relied on the judgment of the Division Bench of this Court in L.P.A. No. 82 of 1992 *Jalandhar Improvement Trust, Jalandhar v. Daljinder Singh and others*. The Division Bench had noticed the contention raised by the learned counsel in the following words :—

“The next point to be taken into consideration is as to whether the Amending Act of 1984 would be applicable to the acquisition made under the Punjab Town Improvement Act. It was conceded by the counsel appearing for the appellant that the Amending Act of 1984 would be applicable to the lands which have been acquired after the coming into force of the Amending Act, 1984 but the transitional provisions of Section 30 of the Amending Act would not be applicable to the lands acquired under the Punjab Town Improvement Act and the same would be applicable to the lands acquired under the Principal Act i.e. the Land Acquisition Act only.”

This contention was rejected with the following observations :—

“We do not find any substance in this submission of the learned counsel appearing for the appellant. The Apex Court in *Nagpur Improvement Trust and Another v. Vithal Rao and others*, A.I.R. 1973 S.C. 689, held that it is equally immaterial whether it is one Acquisition Act or another Acquisition Act under which the land is acquired. If the existence of the two Acts would enable the State to give one owner different treatment from another equally situated the owner who is discriminated against would be hit by equality clause of Article 14 of the Constitution of India. This view was followed by the Full Bench judgment of this Court in *Harbans Kaur and others v. Ludhiana*

Improvement Trust and others (1), in which it was held as under :—

“The denial of the benefits of the Land Acquisition Act to the persons whose lands are acquired under the Punjab Town Improvement Act will amount to violation of Article 14 of the Constitution and, therefore, all benefits under the Land Acquisition Act shall be allowed to the persons whose lands and properties are acquired under the Punjab Town Improvement Act.”

Following the law laid down by the Supreme Court in *Vithal Rao's* case (Supra) and the Full Bench judgment of this Court in *Harbans Kaur's* case (Supra), we hold that the claimant-respondents would be entitled to all the beneficial provisions under the Amending Act, 1984 including the transitional provisions under Section 30 of the said Act as to hold otherwise, would be discriminatory in nature.”

(11) Further the Apex Court in *Hoshiarpur Improvement Trust v. The President Land Acquisition Tribunal and others Judgment Today* (2), has rejected a similar contention. Consequently, there is no merit in the contention raised on behalf of the petitioner.

(12) It is next contended that the Tribunal having given the award in the year 1983 could not have reviewed it after the lapse of many years. Has the Tribunal reviewed the order or merely rectified the mistake? A perusal of the impugned order shows that while granting solatium and interest, the provisions of the Amending Act had escaped notice. Apparently, this was an omission. By the impugned order, the mistake has been rectified and the award has been brought in conformity with the provisions of law. Furthermore, supposing the respondents had approached this Court in a petition under Article 226 of the Constitution, the requisite relief could have been granted to them in view of the provisions of the Act. In such a situation, it would not be equitable or fair to deny the relief to them on the hypertechnical ground raised by the learned counsel for the petitioner.

(13) Equally lacking in merit is the objection regarding delay. Vague allegation has been made. The provisions of the Amending Act had been promulgated in the year 1984. The award had been

(1) 1973 P.L.J. 250.

(2) 1990 (2) S.C. 567.

given by the Tribunal in almost all the cases during the period between April 30, 1982 to September 24, 1984. The application for rectification appears to have been moved in the year 1986. A copy of the order attached with the written statement of respondent No. 21 shows that the application was moved on August 16, 1986. If instead of moving the application before the Tribunal, a writ petition had been filed in this Court on that date, the claim could not have been declined on the ground of delay. Equally, it could not have been declined even by the Tribunal. Furthermore, it is clear that delay is a question of fact, No such objection appears to have been raised before the Tribunal. It cannot be allowed to be raised now.

(14) In view of the above, it is not necessary to examine the contention relating to the *locus standi* of the petitioner to file the present petition.

(15) Taking the totality of circumstances into consideration, there is no merit in this petition; It is consequently dismissed. In the circumstances of the case, the parties are left to bear their own costs.

J.S.T.

Before : J. L. Gupta, J.

VARINDER KUMAR & OTHERS,—Petitioners.

versus

PUNJAB MANDI BOARD,—Respondent.

Civil Writ Petition No. 17953 of 1991

September 8, 1992

Constitution of India 1950—Article 226—Punjab Agricultural Produce Markets Act 1961—Bonus—Work charged employees claiming bonus—Entitled to parity of treatment with others holding similar post on regular/adhoc basis also entitled to payment of monetary benefits like bonus etc.

Held. that the petitioners who are working on work-charge basis, are entitled to parity of treatment with others holding similar post on regular/adhoc basis. They are entitled to the payment of monetary benefits like *ex-gratia* payment, bonus etc. as claimed by them in this petition.

(Para 12)