APPELLATE CIVIL

Before D. K. Mahajan, J.

SARDARA SINCH 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 Provise—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 Firs' 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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(2) The Land Acquisition Collector awarded compensation at the rate of Rs. 1,300 per acre. This compensation was accepted by the claimant and later on, he made an application under section 18 of the Land Acquisition Act (hereinafter referred to as the Act) for a reference to the District Judge. His case was referred to the District Judge in spite of the provisions of section 31(2)—Second Proviso, which reads thus:—

* *

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

- (3) In fact, the reference application of this person should have been rejected. In any event, when the matter came up before the learned District Judge, the learned Judge was of the view that this claimant had failed to show that he had accepted the amount of compensation under protest after the award was made; and, therefore, could not object to the compensation awarded by the Collector. The learned Judge repelled the argument of the State that he had no jurisdiction to hear the reference relying upon the decision of this Court in Hari Krishan Khosla v. State of Pepsu (1). Against this decision, an appeal has been preferred to this Court.
- (4) The short contention advanced by the learned Advocate-General is that there is no merit in this appeal because the claimant accepted the compensation after the award without protest; and if he does so, he had no right to seek a reference under section 18 of the Act in view of the provisions of section 31 (2)—Second Proviso; and, in any event, if a reference is made, it is open to the Court not to give him relief in view of his having accepted the compensation without protest—in other words, having accepted the award as a good award. Reference is also made to section 20, clause (b) of the Act.
- (5) The contention of the learned counsel for the claimant-appellant, on the other hand, is that moment an order of reference is made under section 18, the Court is bound to decide the reference

⁽¹⁾ A.I.R. 1958 Pb. 490.

irrespective of the fact, whether the provisions of section 31(2)—Second Proviso or section 20(b) stand in the way; and in support chis 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. 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.