23. Tea stalls were being run in a number of booths in sectors 22, 23 and 27.

(14) It is, however, needless, for me to decide this question, since I am accepting the writ petition on the other grounds already mentioned.

(15) In view of what I have said above, this petition succeeds and the impugned orders are quashed. There will, however, be no order as to costs.

R.N.M.

REVISIONAL CIVIL

Before Prem Chand Pandit, J.

BACHAN SINGH

versus

LAND ACQUISITION COLLECTOR (DEFENCE) ESTATE OFFICER,—
Respondent

Civil Revision No. 42 of 1966

August 19, 1968

Land Acquisition Act (I of 1894)—S. 18—Application for referring under—Applicant—Whether has the right to be heard before its rejection—Order on such application—Whether to be a speaking order.

Held, that when the Land Acquisition Collector disposes of an application under section 18 of the Land Acquisition Act, he acts in a quasi-judical manner. If he decides to reject that application and not refer the matter to the District Court, the applicant would, undoubtedly, be seriously prejudiced, e.g., he will not be able to get more compensation than what has been awarded by the Collector. That being so, it is only proper that before his application is rejected or no action is going to be taken thereon, he should be called and given a hearing. This ought to be done, if on no other ground, at least on the principles of natural justice. (Para 8)

Held, that any order passed by the Collector on an application under section 18 is subject to revision by the High Court by virtue of section 18(3) of the Act. This means that the order passed by the Collector under section 18 should be a speaking order and made in the presence of the party who is going to be affected thereby.

(Paras 8 and 9)

Petition under Section 115 of Code of Civil Procedure for revision of the order of the Land Acquisition Collector (Defence), Chandigarh, dated the 19th November, 1965, rejecting the application for reference under section 18 of the Land Acquisition Act, 1894, and to seek remedy in the Court of Law.

A. S. BAINS, ADVOCATE, for the Petitioner.

NEMO, for the Respondent.

JUDGMENT

PANDIT, J.—The facts are not quite clear from the record produced in this case. It appears that agricultural land measuring 4 kanals 11 marlas, situate in village Ferozepur Bangar, tehsil Kharar, belonging to Bachan Singh, petitioner was acquired by the Government for defence purposes in March, 1965. According to the petitioner, the Land Acquisition Collector gave a notice under section 9 of the Land Acquisition Act, 1894 (hereinafter called the Act) and asked him to give his claim. He did that and desired that compensation at the rate of Rs. 9,600 per acre be granted to him. The Collector gave his award and allowed compensation at the rate of Rs. 1,400 per acre. On 2nd August, 1965, the petitioner filed an application before the Land Acquisition Collector (Defence), which was to the following effect:—

> "*Subject*:—Acquisition of land in village Ferozepore Bangar, tehsil Kharar, district Ambala, for the defence purposes. Claims/Objections under section 18 of the Land Acquisition Act, 1894.
>
> (2) The applicant respectfully submits as under:—
>
> (1) That the Government have acquired land 4 kanals, 11 marlas of Barani land in village Ferozepore Bangar, tehsil Kharar (Ambala) its H.B. No. 341 for the defence purposes vide notification No. C-2226-W-65/1/7480, dated 20th March, 1965.
>
> (2) That the applicant has received notice under section 9 of the Act and have been directed to appear before you on the 21st April, 1965, at Mullanpur, Garibdass for submitting their claims and objections before you.

(3) That the applicant submitted his claim and objections as under:—

(a) Mullanpur is a very good town with a population of about 4,000 persons, a High School for boys, Middle School for girls, and a business centre of the area. This is situated at a distance of 3 miles from Chandigarh with connected by a pacca road with regular Bus Service. For all intents and purposes this is a Sub-urban area of Chandigarh with Substantial potential value. Land at village Ferozepore Bangar has been sold in previous at Rs. 2,000 per bigha. Thus I claim for compensation of the acquired land at Rs. 2,000 per bigha. It is further brought to your notice that the value of the area acquired is Rs. 100. Hence the value to be awarded by you may please be assessed keeping in view fact.

(b) Interest from the date of possession till the date of actual payment be awarded and paid to me.

(c) Compensation in respect of land prepared by me by ploughing and putting manure, for the next crop be assessed and paid to me.

(d) 15 per cent compulsory acquisition charges, and 8 per cent chagres which I have to spend for the purchase and registration fee of land elsewhere be also awarded and paid to me.

(e) Compensation on account of severance of applicants' other properties be assessed and paid to me."

(3) According to the petitioner, the Collector did not inform him about the result of his application. The petitioner, therefore, on 2nd November, 1965 made another application before the Collector which runs thus:—

"*Subject*:—Application under section 18 of the Land Acquisition Act, 1894, dated 2nd August, 1965 in respect of land acquired in village Ferozepore Bangar.

Sir,

Kindly refer to my application under section 18, dated 2nd August, 1965, for referring the case to the Court for determining the adequate amount of compensation of land acquired in village Feroezepore Bangar.

That I have specifically stated in that application that the award given by you is not acceptable to me and the amount of compensation be assessed at Rs. 2,000 per bigha.

That my application under section 18 was intended for making a reference to the Court, if for clerical or typical reason the prayer has not been made in it I may please be allowed to amend the application and my case may now be referred to the District Court, Ambala.

It is, therefore, prayed that my case may please be referred to the District Court, under section 18 of the Act.

Thanking you."

(4) Thereafter, the Land Acquisition Collector sent the following communication to the petitioner:—

"Memorandum No. 2901/LAD,

Dated Chandigarh, the 19th November, 1965.

Subject:—Reference under Section 18 of the Land Acquisition Act, 1894—Defence installations.

Reference your application, dated the 2nd November, 1965, on the subject noted above,

2. Your application, dated the 2nd August, 1965, was not in conformity with the provisions of the Land Acquisition Act, 1894. It has, therefore, been rejected for not being a proper application for reference to Court. You may seek remedy in the Court of law."

(6) That led to the filing of the present revision petition by Bachan Singh, on 6th January, 1966.

(7) Learned counsel submitted that the petitioner had made two applications under section 18 of the Act and, consequently, the matter should have been referred by the Collector to the District Court for determination of the amount of compensation. It was the case of the petitioner that the compensation awarded by the Collector was inadequate and he should have been given the same at the rate of Rs. 9,600 as against Rs. 1,400 per acre allowed by the Collector. His argument, in the alternative, was that, in any case, the petitioner should have been heard before his applications were rejected and not forwarded to the District Court under section 18 of the Act.

(8) There can be no manner of doubt that when the Land Acquisition Collector disposes of an application under section 18 of the Act, he is acting in a quasi-judicial manner. If he decides to reject that application and not refer the matter to the District Court, the applicant would, undoubtedly, be seriously prejudiced, e.g., he will not be able to get more compensation than what has been awarded by the Collector. That being so, it is only proper that before his application is rejected or no action is going to be taken thereon, he should be called and given a hearing. This ought to be done, if on no other ground, at least on the principles of natural justice. It is significant to mention that any order passed by the Collector on an application under section 18 is subject to revision by the High Court by virtue of section 18(3) of the Act, which says:—

> "Any order made by the Collector on an application under this section shall be subject to revision by the High Court, as if the Collector were a Court subordinate to the High Court within the meaning of section 155 of the Code of Civil Procedure, 1908 (V of 1908)."

(9) That means that the order passed by the Collector under section 18 should be a speaking order and made in the presence of the party who is going to be affected thereby. That was not done in the instant case. Even if the Collector was of the view that the first application was not in conformity with the provisions of the Act, as mentioned by him in his memorandum dated 19th of November, 1965 quoted above, he should have called the petitioner and passed the order in his presence. He should have also examined the question as to whether any reference could have been made on the basis of the second application. In any event, the decision on both these applications should have been made after giving notice to the petitioner. That having not been done, I set aside the impugned order dated 19th November, 1965 and direct the Collector to dispose of the two applications made by the petitioner in accordance with law in the light of the observations made above. Since the respondent was not represented before me, there will be no order as to costs.

K.S.K.