

(1994) 03 SC CK 0048

In the Supreme Court Of India

Case No : Civil Appeal No's. 4396-4402 of 1986

Ajit Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 18-03-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1994) 2 JT 700 : (1994) 107 PLR 416 : (1994) 2 SCALE 316 : (1994) 4 SCC 67 : (1994) 1 UJ 566

Hon'ble Judges : S. Mohan, J;Kuldip Singh, J

Bench : Division Bench

Final Decision : Partly Allowed

Judgement

1. These civil appeals raise the question of award of compensation under Land Acquisition Act of 1894 (hereinafter referred to as the 'Act'). The respondent, State of Punjab issued a notification u/s 4 on 4.10.1978 for acquisition of land measuring 284 kanals and 9 marlas situated in the Revenue Estate of village Daulatpur, Pathankot. The public purpose of acquisition was for construction of godowns by the Central Warehousing Corporation. The Land Acquisition Collector awarded compensation at the rate of Rs. 330/- per marla besides solatium at the rate of 15 per cent and interest at the rate of 6 per cent from 4.11.1978 to the date of actual payment. Not being satisfied with the same, the appellants preferred application for references u/s 18 of the Act. On reference the learned Additional District Judge enhanced the compensation from Rs. 330/- per marla to Rs. 700/-. To such of those claimants like the appellants who had received the amount of compensation as per the award. Without any protest, this enhancement was denied.

2. Thereupon, the appellants preferred Regular First Appeal No. 447 of 1982 to the High Court of Punjab & Haryana. The learned Single Judge was of the view that two sale deeds Exhibit A6 and R6 would provide the necessary data. Exhibit A6 dated 14th January, 1977 covers 7 marlas of land situated at a distance of

about 50 yards from the suit land. The sale consideration thereunder was Rs. 700/-. The other sale deed R6 dated 16th August, 1978 relates to the sale of 2 and a half marlas of land for Rs. 1000/-. The area covered by the sale deed lies at a distance of just feet from the suit land. Based on this, the fixation of Rs. 700/- per marla was upheld. In this view, he dismissed the appeal.

3. The only point urged before us in this case is that there is enough evidence to establish the lands were sold for higher value. If the average of these sale deeds is worked out the appellant should be entitled to more than Rs. 700/- per marla. Even otherwise, on the basis, of Exhibit A6 itself, the appellant would be entitled to Rs. 1000/- per marla. There is no justification in denying the same. The High Court has gone wrong in upholding the order of the learned District Judge under which an average was struck between sale deeds A6 and R6. The appellants cannot be denied the benefit of enhancement in view of the application u/s 18 of the Act having been filed.

4. We have carefully considered the above submission. The learned 1st Addl. District Judge in paragraph 14 of his judgment states as follows:

As already stated above, instance covered by Exhibit A6 relied upon by the applicants and sale transaction covered by mutation Exhibit R6 are relevant for making the basis for the assessment of the market value of the acquired land. Vide Exhibit A6, the rate per marla comes to Rs. 1000/- whereas Exhibit R6 gives the value per marla at Rs. 400/-. Clubbing these two sales together, the average per marla comes to Rs. 700/-. In my opinion, this could be the appropriate market value of the acquired land.

5. It was this finding which has been upheld by the High Court.

6. Having regard to the contiguity of these lands the High Court is correct in its valuation. Besides, the date of notification, issued u/s 4 of the Act, is 4.10.1978 while Exhibit R6 is nearer to it, namely, 16.8.1978, in comparison to Exhibit A6 dated 14.1.1977. Inasmuch as the appellants have filed an application for reference u/s 18 of the Act that will manifest their intention. therefore, the protest against the award of the Collector is implied notwithstanding the acceptance of compensation. The District Judge and the High Court, therefore, fell into patent error in denying the enhanced compensation to the appellants.

7. Accordingly, we allow the appeals partly and hold that the appellants are entitled to compensation at the enhanced rate as allowed by the District Judge. However, there shall be no order as to costs.