
(2009) 01 P&H CK 0129

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1766 of 1991

Ami Chand and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 06-01-2009

Acts Referred:

Citation : (2009) 5 RCR(Civil) 920

Hon'ble Judges : Rakesh Kumar Jain, J

Advocate : For the Appellant in claimants/land-owners for State of Haryana, Mr. Sandeep Vermani, and Mr. Hemant Bassi, Advocates. For the Respondent in claimants/land-owners for State of Haryana, Mr. Rajiv Kawatra, Senior D.A.G. Haryana., Advocates for appearing Parties

Judgement

Rakesh Kumar Jain, J. (Oral)

1. By this common judgment, I shall be disposing off 8 Regular First Appeals appeals both filed by the claimants/landowners and the State of Haryana, bearing Nos. 1766, 1831, 1832, 1833, 2229, 2298, 2299 and 2300 of 1991, as identical question of law and facts are involved therein. However, for the sake of convenience, the facts are being taken from RFA No. 1766 of 1991.

2. Land measuring 135 kanals 8 marlas (16 acres 7 kanals 8 marlas) was notified under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act") dated 08.6.1987 published in the Haryana Government Gazette of the same date followed by a notification of declaration dated 07.6.1988 issued under Section 6 of the Act and published in the Haryana Govrnment Gazette of the same date, for public puropose, namely for the establishment of New Grain Market, Staff Quarters, Farmers Rest Office, Gaddda Shed etc. in village Nakanpur Tehsil Ferozepur Jhirka, District Gurgaon.

3. District Revenue Officer cum Land Acquisition Collector, Gurgaon (for short, the Collector") vide his award No. 5 of the year 1989 dated 18/23.1.1989 assessed the market value of the acquired land @ Rs. 1,00,000/ per acre.

4. Dissatisfied, landowners filed objections under Section 18 of the Act against the award of the Collector announced under Section 11 of the Act and claimed compensation @ Rs. 3,00,000/ per acre.

5. The learned Reference Court after taking into consideration the evidence available on record and more particularly the sale deed dated 28.5.1988 (Ex.P3) vide which one kanal of land was sold for Rs. 40,000/ which comes to Rs. 3,20,000/ per acre applied a cut of 50% on two grounds, namely the sale deed Ex.P3 pertains to a small area and is a post notification sale, awarded a sum of Rs. 1,60,000/ per acre with statutory benefits in terms of the provisions of the amended Act.

6. Mr. Sandeep Vermani, learned counsel appearing for the appellants has vehemently contended that the learned Reference Court has committed a palpable error while applying a cut of 50%. In this regard, learned counsel for the claimants has referred two decisions of this Court in the cases of Fateh Chand and another v. State of Haryana and others, 2004(1) RCR(Civil) 123 : 2004(1) LACC 164, where a cut of 20% has been applied, and Hissar Improvement Trust v. President, Tribunal Improvement Trust, Hissar and others, 2005(4) RCR(Civil) 137 : 2005(2) LACC 537, in which a cut of 25% has been imposed besides referring to a decision of the Allahabad High Court in the case of Krishi Utpadan Mandi Samiti, Etawah v. Bishan Dass and Ors., 2006(1) LACC 416, in which a cut of 25% has been applied. Learned counsel has submitted that instead of cut of 50%, if cut of 25% is applied, the compensation would be enhanced to Rs. 2,40,000/ per acre.

7. Opposing the contentions raised by the learned counsel for the appellants and persuing their own appeals, Mr. Rajiv Kawatra, learned Senior Deputy Advocate General, Haryana, has contended that the learned Reference Court has committed an error in relying upon a post notification sale deed and has also erred in applying a cut of 50%.. It is also contended that cut of 60% should have been applied in view of the decision of the Apex Court in the case of Kanta Devi & Ors v. State of Haryana & Anr., 2008 AIR Supreme Court Weekly 5241.

8. I have heard learned counsel for the parties and have perused the record with their assistance.

9. The only argument raised by the learned counsel for the appellants is in respect of cut/deduction that has been applied to the value arising out of sale deed Ex.P3. According to the learned counsel for the appellants, cut should be 25%, whereas as per the learned counsel for the State, it should be 60%.

10. Insofar as decision rendered in the case of Fateh Chand (supra) is concerned, land was acquired for developing children park . Total acquired land was 3 kanals and in that case, a cut of 20% has been applied on the sale deeds Ex.P2 and Ex.P3 which are sale deeds prior to the issuance of notification under Section 4 of the Act dated 9.6.1976. In case of Hissar Improvement Trust (supra), it was found that acquired land is situated in developed area surrounded by roads on

three sides, Offices, Cinema houses and shopping complex was in the vicinity. Keeping in view the totality of circumstances, 25% cut on the value of sale instance of a small plot of land was applied. In the case of Krishi Utpadan Mandi (supra), the learned Reference Court had applied a cut of 25%, whereas the argument raised before the High Court was that it should be 15%, but after taking into consideration the entire facts and circumstances, deduction of 25% was maintained. All the judgments cited by the learned counsel for the appellants/claimants are not close to the point in issue because in the present case, the land had been acquired for establishment of New Grain Market, Staff Quarters, Farmers Rest Office, Gadda Shed etc. and the reliance that has been placed upon is on one sale deed which is in respect of a small piece of land and is an year after the issuance of notification under Section 4 of the Act. Whereas in the judgment relied upon by the learned counsel for the State in the case of Kanta Devi (supra), the land was acquired in village Ismailabad, District Kurukshetra for the establishment of a New Grain Market, construction of rest house, staff quarters for which the learned Reference Court had awarded Rs.1,28,000/ per acre for the land of first category and Rs. 80,000/ per acre for second category of land, which was further enhanced by the High Court to the tune of Rs. 2,88,000/ after applying a cut of 70% on the value derived from sale deed Ex.P6. It was found that since grievance of the claimant was only with regard to the rate of deduction on account of development charges and an attempt was made on behalf of the landowners to allege that 70% deduction was unwarranted as the land sought to be acquired was already within or adjacent to a developed area, the Apex Court found that though deduction of 1/3rd of the market value is normal, but in the facts and circumstances of that case, 60% deduction was applied to meet the expenditure towards development charges considering the proximity of the acquired lands to the area already developed.

11. After taking into consideration totality of circumstances and the aforesaid judgment of the Apex Court as well as various judgments cited by the learned counsel for the appellants/claimants, I am of the view that the application of 50% deduction by the learned Reference Court is just and adequate and does not call for any interference either in the appeals filed by the landowners/claimants or in the appeals filed by the State of Haryana.

In view of the above discussion, I do not find any merit in these appeals and the same are hereby dismissed but without any order as to costs.

Appeals dismissed.