
(2016) 03 SHI CK 0058
In the High Court Of Himachal Pradesh
Case No : RFA No. 148 of 2007

Anant Ram and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 03-03-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 18, Section 23(1-A), Section 4(1)

Citation : (2016) 03 SHI CK 0058

Hon'ble Judges : Dharam Chand Chaudhary, J.

Bench : Single Bench

Advocate : K.D. Sood, Senior Advocate and Rajnish K. Lall, Advocate, for the Appellant; D.S. Nainta, Additional Advocate General and Pushpinder Jaswal, Deputy Advocate General, for the Respondent

Final Decision : Disposed off

Judgement

Dharam Chand Chaudhary, J.—1. Award dated 9.3.2007, passed by learned Additional District Judge, Fast Track Court, Kangra at Dharamshala, in LAC Case No. 1/04/02, is under challenge in this appeal.

2. Petitioner Anant Ram was owner-in-possession of the land entered in Khasra No. 98/1, situate in Mauza Mohin, Tehsil Dehra, District Kangra. The land is situated in Chintpurni Bazar being on the boundary of District Kangra and District Una. Out of this land, the respondent has acquired land measuring 0-00-69 hectares (3-4 marlas) for a public purpose namely, construction of water tank on observance of all codal formalities under the Land Acquisition Act, hereinafter referred to as "the Act" in short. The Land Acquisition Collector has passed Award No. 34 on 18.4.2001 and awarded the compensation at the rate of Rs. 100/- per marla. The petitioner, however, refused to receive the amount of compensation being on lesser side. He preferred a reference under Section 18 of the Act by filing a petition before the Land Acquisition Collector. The Collector has forwarded the reference petition to the Court of learned District Judge, Kangra at Dharamshala for adjudication of the dispute.

3. The trial Court on completion of the pleadings has framed the following issues:
- "1. Whether the Land Acquisition Collector has not assessed the market value of the acquired land in accordance with the provisions of Land Acquisition Act, as alleged? OPA.
2. Relief."
4. The parties were put to trial on the issues so framed. Consequently, the petitioner in order to substantiate his claim in the petition has stepped into the witness box as AW-4 and proved the agreement to sell the acquired land, Ext. AW-1/A to Jeet Lal (AW-1). He has also produced in evidence the copy of order of mutation, Ext. AW-4/B. AW-1 Jeet Lal was examined to prove the agreement Ext. AW-1/A vide which the land including the acquired land was agreed to be sold to him in a sum of Rs. 2 lacs. AW-2 is the stamp vendor, who has proved that the stamp paper on which agreement Ext. AW-1/A has been reduced into writing was purchased from him. AW-3 is Shri Kishori Lal. He has been examined to prove that the land was acquired for construction of water tank.
5. The respondent, on the other hand, has examined RW-1 Durga Dass, Registration Clerk in the office of Tehsildar, Dehra, who has proved the copies of sale deeds Exts. RW-1/A and RW-1/B. RW-2 Shri Diwan Chand has also been examined by the respondent to prove the location and potentiality etc. of the acquired land.
6. Learned trial Court on appreciation of the evidence available on record has arrived at a conclusion that since Jeet Lal with whom the agreement Ext. AW-1/A entered, was not examined, therefore, the said document is not legally admissible and as regards the sale instances Exts. RW-1/A and RW-1/B produced by the respondent-State, the same were also not relied upon for the reason that nothing suggesting qua location of the acquired land viz-a-viz the land sold by these documents, was proved on record by the petitioner. The evidence as has come on record by way of copy of order of mutation Ext. AW-4/B has, however, not been discussed. The petitioner, therefore, has assailed the legality and validity of the award under challenge on the grounds inter alia that the evidence available on record amply demonstrates that the market value of the acquired land was not less than Rs. 50,000/- per marla. Also that learned trial Court has misread and misconstrued the evidence available on record and has erroneously dismissed the reference petition.
7. Mr. K.D. Sood, learned Senior Advocate, assisted by Mr. Rajnish K. Lall, Advocate, has forcefully contended that the market value of the acquired land at the rate of Rs. 100/- per marla is highly inadequate, as according to Mr. Sood the evidence available on record is suggestive of the fact that its value should not have been less than Rs. 50,000/- per marla at any cost.
8. On the other hand, Mr. D.S. Nainta, learned Additional Advocate General, has submitted that the evidence, as has come on record by way of the agreement

Ext. AW-1/A and the order of mutation Ext. AW-4/B cannot at all be made the basis to determine the market value of the acquired land. He further submits that if coming to the sale instances Exts.RW-1/A and RW-1/B, the market value of the land again cannot be said to be Rs. 50,000/- per marla, as argued on behalf of the petitioner.

9. On analyzing the record of the case and also taking into consideration the submissions made on both sides, there is no dispute qua the area of the land acquired, which as per award is 0-00-69 hectares bearing Khasra No. 98/1. The total land under this Khasra number was 0-00-72 hectares. The acquired land in marla corresponds to 3-4 marlas, as has also come in the statement of AW-3 Shri Kishori Lal, Junior Engineer. Learned trial Court has rightly ignored the agreement Ext. AW-1/A and also the sale deeds Exts.RW-1/A and RW-1/B while determining the market value of the acquired land for the reason that the agreement was executed between the petitioner and AW-1 Jeet Lal on 28.8.1995 and the sale deeds are dated 28.11.1995 and 24.4.1996, respectively.

10. The findings that the petitioner did not examine Shri Jeet Lal with whom he entered into an agreement Ext. AW-1/A to sell the acquired land are, however, absolutely wrong for the reason that said Shri Jeet Lal has stepped into the witness box as AW-1. There is another document, i.e., copy of order of mutation Ext. AW-4/B, which speaks about a sale transaction having taken place in the same Mohal on 19.7.2002 and the same can be said in proximity to passing of the award which is dated 18.4.2001. This document has neither been taken into consideration nor discussed by learned Additional District Judge in the impugned award. Ext. AW-4/B is an order of mutation. As per this document, land measuring 0-00-16 hectares has been sold in a sum Rs. 1,50,000/-. The area of the land so sold is about one marla. The nature of the land sold, however, was "Sehan". The possibility of there being any structure thereon cannot be ruled out.

11. Now if coming to the acquired land, the nature thereof is "Ghasni". As per the statement of RW-2, the acquired land is situated at a distance of 100 meters from Chintpurni Bazar and also at a distance of 100 meters from road in the valley side. Meaning thereby that the land, as per the evidence available on record, is sloppy. The fact, however, remains that the acquired land is situated nearby Chintpurni Bazar. In view of about one marla of land in the same Mohal has been sold in a sum of Rs. 1,50,000/-, no doubt of different nature, i.e., Sehan as is apparent from the order of mutation, Ext. AW-4/B, it would not be improper to assess the market value of the acquired land at the rate of Rs. 50,000/- per marla, as has even been claimed also by the petitioner in this appeal.

12. Therefore, on reappraisal of the award passed by learned trial Court the market value of the acquired land is determined at the rate of Rs. 50,000/- per marla.

13. In view of what has been said hereinabove, this appeal succeeds and the

same is accordingly allowed. Consequently, the compensation payable to the petitioner in respect of the acquired land is determined at the rate of Rs. 50,000/- per marla. The petitioner is also entitled to additional amount at the rate of 12% per annum on the market value of the acquired land so assessed from the date of notification under Section 4(1), under Section 23(1-A) of the Act and other statutory benefits. The appeal stands disposed of.