
(1994) 11 SC CK 0034

In the Supreme Court Of India

Case No : Civil Appeal No's. 3733-48, 3749, 3750-82 and 3789 of 1986, SLP No's. 13360 of 1986, 14567, 14591-92 and 14657 of 1987, 2136, 2201, 2833, 2835, 2868, 3175 and 4062 of 1991, 9632-36 of 1994 and C.A. No's. 9582 to 9588 of 1994

Bakhtawar Singh and Another

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 29-11-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (1995) 1 SCALE 32 : (1995) 2 SCC 495 : (1994) 6 SCR 196 Supp

Hon'ble Judges : N. Venkatachala, J;N. P. Singh, J;K. Ramaswamy, J

Bench : Full Bench

Advocate : S.S. Javali, B.R. Naik, Neera Agarwal and R.C. Mishra, for Agarwal Mishra and Co, for the Appellant; Ujagar Singh and Naresh Bakshi, for the Respondent

Final Decision : Dismissed

Judgement

1. Leave granted in S.L. Ps. No. 13360/86, 8584/92, 14567/87, 14591-92/87, 14657/87, 2201/91, 2833/91, 2835/91, 2868/91, 3175/91, 4062/91, 2136/91.

2. Notification issued u/s 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was published in the State Gazette on June 8, 1979, acquiring 527 and odd acres of land situated in Bhagu along with the lands in the villages Bibiwala, Bachu Khurd, Bachu Kalan, Gobindpura and Mehna in Batinda district to establish cantonment for the defence purposes at Bhatinda. The Land Acquisition Officer (for short 'the LAO') in his award dated March 30, 1981, awarded a sum of Rs. 22,000/- per acre for Nehri and Chahi land and Rs. 8,000/- per acre for Barani land and Rs. 4,000/- per acre for Gair-mumkin (waste) land. On reference u/s 18, the Addl. District Judge, by his award and decree dated August 6, 1983, enhanced compensation to Nehri and Chahi lands to Rs. 36,000/- per acre and for Gair mumkin land at the rate of Rs. 6,000/- per acre. On appeal u/s 54 of the

Act, the learned Single Judge confirmed the award of the Addl. District Judge by his judgment and decree dated August 3, 1984 and maintained the decree. In Letters Patent Appeal, the Division Bench enhanced the market value to Nehri land to Rs. 37,000/- per acre by his judgment and decree dated Sept. 17, 1985. Thus this appeal by special leave against the judgment and order of the Division Bench for further enhancement.

3. The appellants' claim for further enhancement at par with the amount awarded by the High Court to the lands situated in Bachu Khurd, Bachu Kalan and Mehna at the rate of Rs. 90,000/- per acre up to a depth of 500 meters, Rs. 50,000/- per acre to Chahi and Nehri land etc. The contention of Shri Javali, learned senior counsel for the appellants, is that the LAO made the award on the same day for the lands in Bhagu as well as other villages at the rate of Rs. 22,000/- per acre for Nehri and Chahi lands. The lands in these cases are also Nehri and Chahi lands. That was ultimately enhanced by the High Court at Rs. 50,000/- per acre which was affirmed by this Court in *Union of India (UOI) and Another Vs. Zora Singh and Others*, : The appellants, therefore, are entitled to payment of the same compensation. It is also contended that the lands are situated near the Abadi (built-up residential area) of Bhatinda and the lands in Bhagu are also very near to the railway station in Mandi. The Industrial Training Institute, Bhatinda, is situated at a distance of 4 kms. Bhagu and Phoos Mandi and are a distance of one km. from each other. Therefore, the appellants are entitled to the compensation at the rate of Rs. 50,000/- per acre. The Division Bench of the High Court, relying upon four sale transactions, determined the compensation at the rate of Rs. 37,000/- per acre on an average and awarded the same on its basis. This court repeatedly has held that the application of the principle of average price is wrong and illegal. We have seen that before the LAO, the appellants seem to have claimed at the rate of Rs. 35,000/- per acre and before the Dist. Court, they claimed at the rate of Rs. 60,000/- per acre. In other words, the High Court had granted higher than the amount claimed pursuant to the notice under Sections 9 and 10. The evidence relied upon by the claimants relates to sale transactions from the same acquired lands which fetched at the maximum rate of Rs. 40,000/- per acre when the land of 4 Kanals 6 Marias was sold.. When the lands of 527 acres in huge parcels were acquired it would be preposterous to think that they would fetch the same market value or near about the same market value if a willing buyer bargained from a willing-vendor for such lands. The High Court has given the maximum compensation for the lands in question. It is true that some evidence has been brought from the judgment of the High Court of the lands situated in another village covered by the same notification and ultimately decided in Zora Singh's case. The market value for Nehri and Chahi lands were determined at the rate of Rs. 50,000/- per acre. This court did not consider the case on merits. The SLPs of the Union Government were dismissed without a speaking order.

4. The judgment of the High Court is not a part of the record. We cannot treat it as a proper basis. There must be evidence for the purpose of determining the

market value of the respective prevailing prices in each village. The situation of the lands, their quality and all other relevant facts are necessary and be taken into consideration to enhance the market value which are absolutely lacking in these cases. In these cases, the claimants themselves have produced the sale deeds from their own lands. So it is not necessary to travel to other village to determine the market value of the lands in Bhagu village. If that be so, they cannot get more than Rs. 37,000/- per annum as awarded by the High Court. We may make it clear that the State had not filed any appeal at any point of time ever against the orders of the Addl. Dist. Judge or against the judgment of the Division Bench of the High Court.

5. In view of the foregoing discussion, we need not go into the correctness of the judgment of the Addl. Dist. Judge or of the Division Bench. We do not find any ground warranting further enhancement. Therefore, the appeals are dismissed. No costs.