
(2003) 09 P&H CK 0075

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 504 of 1984

Bhajan Singh (Died) through LRs.

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 24-09-2003

Acts Referred:

Citation : (2004) 2 RCR(Civil) 612

Hon'ble Judges : M.M.Kumar, J

Advocate : Shri Sudhir Mittal, Advocate. Shri Sidharath Sarup, AAG, Haryana.,
Advocates for appearing Parties

Judgement

M.M. Kumar, J.

1. This is claimant's appeal filed under Section 54 of the Land Acquisition Act, 1894 (for brevity the Act) challenging the judgment dated 3.1.1984 passed by the District Judge, Faridabad dismissing the application of the claimantappellant for enhancing the amount.

2. RespondentState issued a notification under Section 4 of the Act on 27.4.1979 for acquisition of land for the public purpose of establishing Grand Market at Mohna. The Land Acquisition Collector vide his award dated 29.8.1980, awarded Rs. 15,000/ per acre for the acquired land. The Reference Court vide impugned order dismissed the application filed by the claimant appellant under Section 18 of the Act and declined his prayer for enhancement. The operative part of the order reads as under :

"Reliance is then placed on an award dated 17.2.1983 (Ex. P.5) rendered by the Land Acquisition Collector wherein some land in village Mohna acquired in pursuance of a notification dated 16.9.1981 under Section 4 of the Act was assessed at the rate of Rs. 28,000/ per acre. It was contended by the learned counsel for the petitioners that the land of his clients was of a superior quality than the one covered by the award (Ex. P.5). It was thus argued that the acquired land in question should be assessed at a higher rate. I find no

substance in the argument. In the first instance, the land covered by the award (Ex. P.5) was acquired in pursuance of a notification of the year 1979. The two transactions, therefore, are not comparable in material particulars. Secondly, there is absolutely no evidence on record to show that the quality of the two lands was similar and their situation was also similar. The petitioner cannot thus, derive any benefit from the award (Ex. P.5).

There is no other evidence on record to come to a conclusion that the market value of the acquired land was in any way more than what was assessed by the Land Acquisition Collector. The issues are decided accordingly."

3. Shri Sudhir Mittal, learned counsel for the claimantappellant has argued that the date of order of Reference Court is dated 3.1.1984 and the claimant appellant shall be entitled to all the statutory benefits because the order of the Reference Court is after the specified date given by the Supreme Court in the case of Union of India v. Raghubir Singh, AIR 1989 SC 1933 : 1989(1) RRR 552 (SC). According to the learned counsel the data given by the authoritative pronouncement of the Supreme Court is 30.4.1982. He has placed specific reliance on para 32 of the judgment.

4. Shri Sidharath Sarup, learned State Counsel has not been able to dispute this proposition but has pointed out that no reliance could be placed on either Ex. P.5 which is a sale instance dated 16.9.1981 nor on the statement of PW.1 Puran. According to him no post acquisition sale or notification or award could be relied upon in respect of acquisition of adjacent areas because of the obvious reason that the market value would escalate after the previous notification. Similarly, the statement made by Puran is also not reliable because he has neither sold or purchased any land before the issuance of notification under Section 4 of the Act nor he has been a witness to any such sale deeds.

5. After hearing the learned counsel for the parties, I am of the considered view that the submission made by the learned counsel for the claimant appellant is meritorious and the same deserves to be accepted. The order of the Reference Court admittedly is dated 3.1.1984 which is after the cut off date pronounced by the Supreme Court after thorough discussion of the amended provisions of the 1984 Act. The views of their Lordships in Raghubir Singh's case (supra) read as under :

"The question is : What is the meaning of the words "or to any order passed by the High Court or Supreme Court on appeal against any such award ?" Are they limited as contended by the appellants to appeals against an award of the Collector or the Court made between 30 April, 1982 and 24 September, 1984, or do they include also, as contended by the respondents, appeals disposed of between 30 April, 1982 and 24 September, 1984 even though arising out of awards of the Controller or the Court made before 30th April, 1982. We are of opinion that the interpretation placed by the appellants should be preferred over that suggested by the respondents. Parliament has identified the appeal before

the High Court and the appeal before the Supreme Court by describing it as an appeal against any such award. The submission on behalf of the respondent is that the words "any such award" mean the award made by the Controller or Court, and carry no greater limiting sense ; and that in this context, upon the language of S. 30(2) the order in appeal is an appellate order made between 30 April, 1982 and 24 September, 1984 in which case the related award of the Controller or of the Court may have been made before 30 April, 1982. To our mind, the words "any such award" cannot bear the broad meaning suggested by learned counsel for the respondents. No such words of description by way of identifying the appellate order of the High Court or of the Supreme Court were necessary. Plainly, having regard to the existing hierarchical structure of fora (forum ?) contemplated in the parent Act these appellate orders could only be orders arising in appeal against the award of the Controller or of the Court. The words "any such award" are intended to have deeper significance and in the context of which those words appear in Section 30(2) it is clear that they are intended to refer to awards made by the Controller or Court between 30 April, 1982 and 24 September, 1984. In other words Section 30(2) of the Amendment Act extends the benefits of the enhanced solatium to cases where the award by the Controller or by the Court is made between 30 April, 1982 and 24 September, 1984 to appeals against such awards decided by the High Court and the Supreme Court whether the decisions of the High Court or the Supreme Court are rendered before 24 September, 1984 or after that date. All that is material is that award by the Controller or by the Court should have been made between 30 April, 1982 and 24 September, 1984..."

6. In view of the above, this appeal is partially allowed. Appellant claimant shall be entitled to all the statutory benefits envisaged under Sections 23(2) and 28 of the Act.

Appeals partly allowed.