

(2003) 09 SC CK 0003

In the Supreme Court Of India

Case No : Civil Appeal No"s. 8609-8613, 8614-8641, 8657-8680, 8642-8652, 8682, 8655, 8653, 8656, 8693-8725, 8726-8735, 8685, 8686, 8688, 8687 and 8691 of 2001, 1388, 2777-2779, 4298-4299, 8032-8036 of 2003 Arising SLP (C) No"s. 14627-14631 of 2002, C.A. No. 8037

Bhim Singh and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 24-09-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 51A, 6

Citation : AIR 2003 SC 4382 : (2003) AIRSCW 5188 : (2004) 1 ALT 6 : (2004) 1 AWC 52 Supp : (2003) 2 JT 415 Supp : (2004) 136 PLR 597 : (2003) 8 SCALE 217 : (2003) 10 SCC 529 : (2003) 7 Supreme 113 : (2004) 1 UPLBEC 162

Hon'ble Judges : S. N. Variava, J;H. K. Sema, J

Bench : Division Bench

Advocate : A.K. Ganguli, S.B. Sanyal and P.P. Rao, Naresh Kaushik, Shilpa Chohan, Abhishek Maratha, Lalita Kaushik, R.C. Kohli, Rao Ranjit, Amita Gupta, Sushil Balwada, Ugra Shankar Prasad, Mayur R. Shah, Shanker Divate, Rajesh Mittra, Neeraj Kumar Jain, Kavita Wadia and Vinay Kumar Garg, for appearing partie, for the Appellant;

Final Decision : Dismissed

Judgement

Variava, J.

Leave granted in Special Leave Petitions.

1. All these Appeals can be disposed of by this common order as all these Appeals challenge Judgments passed by the High Court in land acquisition proceedings arising out of the same Notification.

2. The facts are identical. Facts as taken from C.A. Nos. 8657-8680/2001 are as follows:

The State of Haryana has been acquiring large areas for development of Gurgaon. A number of acquisition proceedings have been initiated since 1983.

We are concerned with acquisition proceedings arising out of a Section 4 Notification issued on 20th April 1990. The lands proposed to be acquired were as follows:

Village Area (in acres)

Jharsa 475.51

Kanhai 579.31

Bindorpur 43.81

Shamashpur 49.78

Section 6 Notification was issued on 18th April 1991. The Award was passed on 23rd March 1993. A number of claimants were dissatisfied with the amounts awarded and preferred References u/s 18 of the Land Acquisition Act. In all 152 References were filed. In all the References more or less, common evidence was led and common questions of law were argued. All these References were answered by the District Judge/Additional District Judge, Gurgaon by 31 Judgments. In the Judgments with which we are concerned, irrespective of the nature of the land, compensation was awarded at the rate of Rs. 265 per square yard i.e. at the rate of Rs. 12,82,600 per acre.

3. Against these Judgments 281 First Appeals were filed. The State of Haryana challenged the Judgments on the ground that the compensation awarded was excessive. The claimants prayed for further enhancements. These Appeals were disposed of by various Judgments. In these Appeals the High Court noted that the Reference Court had relied upon earlier Judgments in respect of earlier acquisitions for the same purpose. The High Court noted that in arriving at the compensation payable the Reference Court had relied upon Judgments in the case of M/s. Standard Rubbers v. State of Haryana and Smt. Gunga Devi v. State of Haryana. The High Court noted that the compensation awarded in these cases had been reduced in Appeals and by adopting a belting system, (in relation to lands located in Jharsa) compensation, at the rate of Rs. 213, Rs. 160 and Rs. 106 was awarded. The High Court noted that in the present acquisition the lands were not abutting any National or main State highway. The High Court thus rightly concluded that the belting system could not be applied in this case. The High Court then took a mean of the above-mentioned three figures to arrive at a figure of Rs. 160. The High Court noted that these figures were in respect of an acquisition of the year 1987 whereas the present acquisition related to the year 1990. The High Court held that the claimants would therefore be entitled to increase. The High Court held that there had to be some deductions because acquisition was of a huge area and there would be development costs. The High Court held that the deductions should be a minimum deductions and applied a deduction of 20 percent, as against the usual deduction of 33 1/3 percent. On the above basis the High Court held, in Suraj Bhan's case, that the claimants are entitled to receive compensation at the rate of Rs. 212 per square yard i.e. Rs.

10,26,080 per acre.

4. It must also be mentioned that in the order Judgments the High Court took note of Suraj Bhan's case and awarded Rs. 212 per square yard. In some of the Judgments the High Court has taken note of the fact that in respect of earlier acquisitions some matters had come to this Court and this Court had approved the rate fixed by the High Court in those matters. It was rightly held that when this Court had fixed rates in respect of earlier acquisitions for the same purpose it was better to adopt those rates with suitable increases than to rely upon sale instances.

5. All the Letters Patent Appeals have been dismissed by the impugned judgments. Hence, these Appeals. We have heard parties at great length and considered the submissions.

6. On behalf of the Appellants it was submitted that the High Court erred in not taking into account the sale instances which had been brought on record. It was pointed out that the High Court had held, in respect of most of the sale instances, that they could not be relied upon as the vendor and/or vendee had not been examined. Reliance was placed upon the Judgment of this Court in the case of Land Acquisition Officer and Mandal Revenue Officer Vs. V. Narasaiah, . In this case reliance was placed upon Section 51A of the Land Acquisition Act and it was held as follows:

"If the only propose served by Section 51A is to enable the court to admit the copy of the document in evidence there was no need for a legislative exercise because even otherwise the certified copy of the document could have been admitted in evidence.

The State has the burden to prove the market value of the lands acquired by it for which the State may have to depend upon the prices of lands similarly situated which were transacted or sold in the recent past, particularly those lands situated in the neighbouring areas. The practice had shown that for the state officials it was a burden to trace out the persons connected with such transactions mentioned in the sale deeds and then to examine them in court for the purpose of proving such transactions. It was in the wake of the aforesaid practical difficulties that the new Section 51A was introduced in the LA Act. When the section says that certified copy of a registered document "may be accepted as evidence of the transaction recorded in such document" it enables the court to treat what is recorded in the document, in respect of the transactions referred to therein, as evidence.

The words "may be accepted as evidence" in the section indicate that there is no compulsion on the court to accept such transaction as evidence, but it is open to the court to treat them as evidence. Merely accepting them as evidence does not mean that the court is bound to treat them as reliable evidence. What is sought to be achieved in that the transactions recorded in the documents may be treated as evidence, just like any other evidence, and it is for the court to weigh

all the pros and cons to decide whether such transaction can be relied on for understanding the real price of the land concerned."

It was submitted that even though the Reference Court and the High Court had not taken the sale instances into account in view of the then prevailing law, this Court can and should take into the sale instances to arrive at the compensation payable. A number of sale documents were shown in this Court. It was submitted that if an average of all these sale instances is taken the price would come to over Rs. 500 per square yards. We are unable to accept this submission. In many of the sale instances the price is inclusive of price of the structures standing on the land. Even otherwise when compensation has already been fixed by the High Court in earlier proceedings and when in one such proceeding this Court has already approved the rate fixed then in our view the best method would be to look at the earlier Judgments and Awards. therefore the High Court cannot be faulted for having fixed compensation on the basis of earlier Judgments.

7. On behalf of the Appellants it was next submitted that the High Court was wrong in taking a mean of the three figures. It was submitted that the High Court should have adopted the highest of the three figures namely the sum of Rs. 213 per square yard and given a suitable increase on that figure. It was submitted that even if an increase at the rate of 12 percent per year compound was given the figure of Rs. 265 per square yard fixed by the Reference Court would have been found correct. We are unable to except this submission. Undoubtedly the land now acquired is adjacent to the land acquired under the earlier Notification. However in that case some of the lands were abutting the National Highway. Thus lands abutting the National Highway were given the rate of Rs. 213 per square yards. Adopting a belting system lands away from the Highway, depending upon the distance from the Highway, were fixed at Rs. 160 and Rs. 106. We have seen the location of the lands now acquired. They abut the land which was granted compensation of the rate of Rs. 106. Thus if averaging was not to be done and the earlier rate was to be adopted then the figure of Rs. 106 would have had to be taken. Instead the High Court has adopted a more favourable method for the claimants and by taking a mean adopted the figure of Rs. 160. The claimants can hardly be aggrieved by this method. If it all it is the State who could have complained.

8. It was next submitted that there should have been no deduction as compensation was being fixed on the basis of earlier Judgments and in those earlier judgments deduction had already been made for arriving at the fair market value. We saw some substance in this submission. We therefore give time to the claimants to produce the earlier Judgments/Awards to show that deduction had already been made. A number of other judgments of the reference Court in respect of earlier acquisition and even a judgment of this Court in respect of acquisition proceedings initiated in 1983 were shown to this Court. However, significantly neither the judgment of the reference Court or the High Court in the cases of M/s Standard Rubbers v. State of Haryana and Smt. Gunga

Devi v. State of Haryana were shown to this Court. From the number of judgments shown to this Court it is clear that the claimants have copies of all the judgments. The fact that the Judgments on which reliance was placed were not shown to this Court leads to a presumption that there had been no deductions in those Judgments. It is thus not possible to accept the submission that there should have been no deduction.

9. It was next submitted that the claimants were entitled to higher compensation as the Respondents had in 1989 auctioned plots of land at the rate of Rs. 1725 to Rs. 2510 per square yard. In our view this submission merely needs to be stated to be rejected. What price is fetched after full development cannot be the basis for fixing compensation in respect of land which was agricultural.

10. In view of what has been stated herein above we see no reason to interfere. The Appeals stand dismissed. There will be no order as to costs.