
(2007) 08 P&H CK 0071
In the Punjab And Haryana At Chandigarh

Bimla Rani and Others

APPELLANT

Vs

Land Acquisition Tribunal and Others

RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Land Acquisition Act, 1894 — Section 4

Citation : (2007) 4 PLR 598 : (2007) 4 RCR(Civil) 329

Hon'ble Judges : Rajive Bhalla, J;P. Sathasivam, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Rajive Bhalla, J.—This order shall dispose of C.W.P. Nos. 9162 of 1987, 1340 of 1988, 1800 of 1990 and 8697 of 1987, as they impugn the award, dated 5.5.1987, passed by the Land Acquisition Tribunal, Kapurthala, under the Punjab Town Improvement Act, 1940, (for short herein after referred to as "the Act"). C.W.P. Nos.9162 of 1987, 1340 of 1988 and 1800 of 1990 have been filed by the land owners, whereas C.W.P. No. 8697 of 1987 has been filed by the Improvement Trust, Phagwara.

2. The State of Punjab issued a notification, u/s 36 of the Act, dated 1.8.1975, proposing to acquire 76 acres of land for a development scheme for residential and commercial purposes in Phagwara town. Vide notification, dated 27.10.1976, issued u/s 42 of the Act, the scheme was sanctioned and 76 acres of land was acquired. The Land Acquisition Collector pronounced his award on 27.1.1977. He divided the acquired land into five blocks, A, B, C, D & E and assessed as follows:

Rs. 407/- per marla for block A, Rs. 376/- per marla for block B, Rs. 313/- per marla for block C, Rs. 250/- per marla for block D and Rs.156A per marla for block E.

3. Asserting that the amount awarded was paltry and did not reflect the true market value of the acquired land, the land owners filed references before the

Collector claiming enhancement of compensation. The references were forwarded to the Land Acquisition Tribunal. The land owners, as also the Improvement Trust led evidence, before the Tribunal, the former for the purpose of enhancement and the latter in support of the award, passed by the Collector. The Tribunal, vide the impugned award, accepted the reference and enhanced the market value in the following terms:

Block A Rs. 1,400/- per marla. Block B Rs. 1,200/- per marla. Block C Rs. 1,000/- per marla. Block D Rs. 800/- per marla. Block E Rs. 350/- per marla.

4. The Tribunal also held that the land owners were entitled to solatium @ 30% on the enhanced compensation and interest @ Rs. 12/- per annum on the enhanced amount of compensation from the date of award till its realisation.

5. Aggrieved by the aforementioned award, the Improvement Trust challenges the award of enhanced compensation, whereas the land owners seek further enhancement of compensation.

6. Counsel for the petitioners-land owners contends that there is no dispute as to the location and potential of the land. Admittedly, the land falls within municipal limits of Phagwara town. It is located at a distance of 40 to 50 yards from the G.T. Road and abuts the Civil courts. The site plan Ex. A2 reveals that to the North of the acquired land lies a grain market, and to its south is Model Town. On either side of the G.T. Road, there exist commercial establishments like a Cinema hall, hotels, banks and houses. It is contended that in view of the undisputed potential of the land, the Tribunal erred, while awarding a paltry amount of compensation. It is further contended that the Tribunal placed reliance upon the award of the District Judge, Kapurthala, with respect to acquisition of adjoining land, namely, Ex. A21, dated 31.8.1978. The land in Ex. A21 was acquired on 3.9.1971 for a residential complex and for building a Govt. Complex. For the year 1971, the Court assessed the market value @ Rs. 850/- per marla. This award was impugned before the High Court in R.F.A. No. 144 of 1979. The first appeal was allowed and market value was enhanced to Rs. 1,800/- per marla. It is urged that as this land adjoins the acquired land and the Tribunal has also placed reliance thereon, the market value, in the present case, be accordingly enhanced.

7. It is next contended that the Tribunal has relied upon another award, pronounced by the Additional District Judge, dated 30.3.1984, wherein compensation was awarded @ Rs. 3,500/- per marla for land abutting the road upto the depth of 80 karams, and @ Rs. 3,000/- per marla for the rest of the land. In this case, land measuring 60 kanals 14 marlas was acquired in the revenue estate of village Chachoki, for setting up a residential urban estate. The aforementioned determination of market value was affirmed by this Court in R.F.A. No. 1535 of 1984, decided on 31.1.1989.

8. The next point, urged by counsel for the land owners, is that the belting system should not have been adopted. The evidence discloses the existence of roads, developed colonies, industries, a cinema hall, houses, a court complex

etc. The land is in the midst of a developed area. The Tribunal, therefore, should have been awarded a flat rate of compensation for the entire land. Reliance of the above proposition is placed upon *Gulzara Singh and Ors. v. State of Punjab and Ors.* 1993 (2) R.L.R. 1 (S.C.) : 1993 L.A.C.C. 612 S.C., *Smt. Shanti and Ors. v. State of Haryana and Anr.* 1994 (2) R.L.R. 408 : 1994 (2) C & R I.J. 777, *Kashmira Singh and Ors. v. Land Acquisition Tribunal, Ludhiana* 2006 (2) L.A.C.C. 423, *Jalandhar Improvement Trust, Jalandhar v. Vidya Suri and Ors.* (2006) 142 P.L.R.53 (D.B.), *Sh. Radhe Shyam v. State of Haryana and Ors.* 1980 P.L.J. 77, *State of Punjab and Others Vs. Punni Devi alias Basant Kaur, , Harchal Singh v. State of Punjab through LAC Punjab* 1991 L.A.C.C. 203, and *Hisar Improvement Trust v. The President Tribunal Improvement Trust, Hisar* 2005 (3) L.L.R. 457 (D.B.).

9. It is further argued that though while considering challenge to an award, passed under the Act, this Court does not exercise appellate jurisdiction, but where the award discloses non application of mind, or failure to consider relevant material or absence of reasons in support of the conclusion recorded this Court would be justified in setting aside the award and determining compensation, so as to reflect the true market value. Reliance is placed upon *Hisar Improvement Trust v. The President Tribunal Improvement Trust, Hisar* 2005 (3) L.L.R. 457 (D.B.) and *The Jalandhar Improvement Trust Vs. Vidya Suri (Smt.) and Others, .*

10. As regards the dismissal of a reference, arising from this acquisition, upto the Hon''ble Supreme Court, it is contended that though land is acquired by a common notification, each party has individual rights and is entitled to lead evidence with respect to the market value of its land. The failure, on the part of one claimant, to lead evidence, with respect to market value, would not bind other land owners. It is further contended that in the case of *Major Pakhar Singh Atwal*, no legal evidence was led and, therefore, the Tribunal, the High Court, and the Hon''ble Supreme Court affirmed the Collector's award.

11. Counsel for the Improvement Trust, while controverting the arguments, raised by counsel for the land owners, asserts that the amount, awarded by the Tribunal, is in excess of the market value of the acquired land. The land, though situated within Phagwara town, was agricultural land. The rate, awarded by the collector, was just and fair and should have been affirmed by the Tribunal. It is contended that the Tribunal erred by relying upon Exs. A21 and A21/A. In Ex. A21, the notification, u/s 4 of the Land Acquisition Act, was issued on 3.9.1971, whereas in Ex. A21/A, the notification, u/s 4 of the Land Acquisition Act. was issued on 23.12.1975. These instances are, therefore, irrelevant for assessing the market value. It is contended that property that abuts a road fetches a higher price, whereas the property, situated away from the road, fetches a lower rate. The Tribunal, therefore, was justified in dividing the land into five blocks. It is further argued that resort to the belting system is a legal and valid method of determining market value. Reliance for the above proposition is placed upon *Municipal Committee, Bhatinda and Ors. v. Balwant Singh and Ors.* 1995 LACC

533, Raj Kumar and Anr. v. State of Punjab and Anr. 1995 LACC 297, and Khanna Improvement Trust Vs. Land Acquisition Tribunal and Others, .

12. It is also argued that the Hon"ble Supreme Court, vide order, dated 24.1.1995, dismissed Civil Appeal No. 874 of 1986, upholding the Collector's award. It is asserted that as the rate, determined by the Collector, has become final, the Tribunal erred, while enhancing the market value.

13. The last argument, advanced by counsel for the Improvement Trust, is that while exercising jurisdiction, under Article 226, of the Constitution of India, this Court cannot assume powers of an appellate authority and proceed to evaluate and appraise evidence. In case, this Court arrives at a conclusion that market value has been incorrectly assessed, this Court has no jurisdiction to order enhancement and may at best remit the matter to the Tribunal. Reliance for the aforementioned proposition is placed upon Syed Yakoob Vs. K.S. Radhakrishnan and Others, and Batala Improvement Trust Vs. State of Punjab and Others, .

14. We have heard learned Counsel for the parties and perused the paper book.

15. Before we proceed to adjudicate the matter on merits, it would be necessary to deal with two significant contentions, pressed into service, by counsel for the Improvement Trust, namely, that in the case of Major Pakhar Singh Atwal, the collector's award has attained finality upto the Hon"ble Supreme Court, and the second that this Court lacks jurisdiction to assess market value and in case it arrives at a conclusion that the award is in any manner flawed, the dispute would have to be remitted to the Tribunal.

16. As regards the first point, it would be necessary to notice that one Major Pakhar Singh Atwal preferred a reference, against the Collector's award. He, however, failed to lead any material evidence other than certain mutations. The Tribunal, therefore, dismissed the reference. The Tribunal's award was upheld by this Court, and the Hon"ble Supreme Court dismissed his civil appeal, namely, Civil Appeal No. 874 of 1986, Major Pakhar Singh Atwal and Ors. v. The State of Punjab and Ors. 1995 (2) R.R.R. 297 (S.C.) by observing as under:

Reference is not an appeal, it is an original proceeding, It is for the claimants to seek the determination of proper compensation by producing sale deeds and examining the vendors or the vendees as to passing of consideration among them, the nearness of the lands sold to the acquired lands, similarly of the lands sold and acquired and also by adduction of other relevant and acceptable evidence. In this case, for the court u/s 18 of the Act, the Tribunal is constituted. Therefore, if the claimants intends to seek higher compensation to the acquired land, the burden is on them to establish by proof that the compensation granted by the Land Acquisition Officer is inadequate and they are entitled to higher compensation. That could be established only by adduction of evidence of the comparable sale transactions of the land acquired or the lands in the neighborhood possessed of similar potentiality or advantages. Unfortunately, in this case, no witness had been examined in proof of the prevailing market value

of the lands in the neighborhood. Only mutation entries were relied upon. They are inadmissible evidence and cannot be relied upon. No doubt, in the award itself, the Land Acquisition Officer referred to the sale transactions. Since the Land Acquisition Officer is an authority under the Act, he collected the evidence to determine the compensation as an officer. Though that award may be a material evidence to be looked into, but the sale transactions referred to therein cannot be relied upon implicitly, if the party seeking enhancement resists the claim by adducing evidence independently before the Court or the Tribunal. In this case, since no steps were taken to place the sale transaction referred in the award, they cannot be evidence. So they can neither be relied upon nor can be looked into as evidence.

If we ignore the sale instances, we do not have any other evidence except the award dated 5.5.1987 given by the Tribunal. Unfortunately, no application has been filed for receiving it as additional evidence under Order 41 Rule 27 C.P.C. Unless it forms part of evidence on record, we cannot look into that award evidence before court. Even otherwise, when admittedly, the Respondent had already challenged the validity of that award in the High Court, we express no opinion on the correctness of that regard. But that is not a ground for this Court to remand the matter to the High Court for reconsideration, as asked for.

17. It is, thus, apparent that in the case of Major Pakhar Singh Atwal, the claimant failed to produce any material evidence on record in support of his plea for enhancement of compensation. In our considered opinion. Major Pakhar Singh Atwal's case (supra) cannot be pressed into service against the land owners.

18. Though land is acquired by a common notification, the State acquires individual rights in property. Upon conclusion of the proceedings for acquisition, these individual rights stand extinguished. A land owner is thereafter entitled to and is in fact conferred with a separate and distinct right under the Act, to seek enhancement over and above the market value, determined/awarded by the Collector. Each land owner is free to lead such evidence as in his perception reflects the market value of his land. The inability of a land owner to produce relevant material in support of his plea of enhancement of market value would not bar other land owners from producing material evidence in support of their plea for enhancement. Consequently, the fact that Major Pakhar Singh Atwal failed to place on record material evidence in support of his plea for enhancement, would not relegate parties in the present proceedings to the fate, suffered by Major Pakhar Singh Atwal. The contention, urged by counsel for the Improvement Trust, that the award Ex. R1, upholding the amount, awarded by the Collector, is the final determination of the market value of the land in dispute, thus, cannot be accepted.

19. The second point is with regard to the jurisdiction of this Court. It is true that while considering challenge to the award of a Tribunal, this Court does not exercise appellate jurisdiction. Thus, reliance by counsel for the Improvement

Trust, on the judgment in Syed Yakub 's case (supra) is unexceptional. The said judgment succinctly sets out the limits of a High Court's jurisdiction, while issuing a writ of certiorari under Article 226 of the constitution of India. However, a reference needs to be made to another judgment of the Hon'ble Supreme Court, in State of Andhra Pradesh Vs. P.V. Hanumantha Rao (D) thr. Lrs. and Another, , wherein, while considering a similar controversy, it observed as follows:

30. True, it is that remedy of the writ petition available in the High Court is not against the "decision" of the subordinate court, tribunal or authority but it is against the "decision-making process." In the "decision-making process", if the court, tribunal or authority deciding the case, has ignored vital evidence and thereby arrived at erroneous conclusion or has misconstrued the provisions of the relevant Act or misunderstood the scope of its jurisdiction, the constitutional power of the High Court under Article 226 and 227 can be invoked to set right such errors and prevent gross injustice to the party complaining.

20. In Surya Dev Rai Vs. Ram Chander Rai and Others, , while examining the nature and mode of a High Court's power to issue writs under Articles 226 and 227 of the Constitution of India, the Hon'ble Supreme Court observed thus:

39. Though we have tried to lay down broad principles and working rules, the facts remains that the parameters for exercise of jurisdiction under Article 226 or 227 of the Constitution cannot be tied down in a strait-jacket formula or rigid rules. At the end, we may sum up by saying that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the judge.

21. Relying upon the aforementioned observations, a Division Bench of this Court in Ludhiana Improvement Trust v. Hari Shanker 1986 RRR 540, held as follows:

The only contention raised before us by the learned Counsel for the appellant is that the learned Single Judge should not have interfered with the determination of the compensation in exercise of his jurisdiction under Article 226 of the constitution of India. A similar contention was raised before the learned Single Judge and repelled on the ground that the Tribunal had ignored the relevant evidence. In our view, the learned Single Judge was right in going into the legality of the award of Tribunal as the relevant evidence was ignored while determining the amount of compensation.

22. The judgment of the Hon'ble Supreme Court, as also the aforementioned judgment, were followed by another Division Bench in The Jalandhar Improvement Trust Vs. Vidya Suri (Smt.) and Others, .

23. At the heart of every exercise of judicial power lies a salutary principle, namely, the duty of every Court to exercise its powers to further the cause of justice, and to ensure that errors, leading to a miscarriage of justice, are not committed. It is apparent that a High Court's jurisdiction, under Article 226 or Article 227 of the Constitution, cannot be placed within the confines of rigid

formulae, guidelines or case iron fetters. High court may proceed to interfere where the impugned orders disclose an apparent error or an abject disregard to the provisions of law and of paramount significance, where the impugned order discloses an apparent error or an abject disregard to the provisions of law and of paramount significance, where the impugned order discloses grave and palpable injustice.

24. Where, however, adjudication of the challenge to an award would involve a detailed appreciation and appraisal of evidence, and the High Court would be called upon to return findings of fact for or against the findings, recorded by a Tribunal. Such an exercise would obviously require a detailed appreciation of evidence and the High Court may, in its discretion, remit the matter to the Tribunal. In *Ludhiana Improvement Trust v. Hari Shanker's case* (supra) and *Jalandhar Improvement Trust, Jalandhar v. Vidya Suri (Smt.) and Ors. case* (supra), the High Court interfered, as a detailed appreciation and appraisal of evidence was not involved in these cases. Thus, we propose to examine the impugned order, in the light of the aforementioned conclusion of law, recorded herein above.

25. A perusal of the impugned award, in our considered opinion, discloses an error so fundamental as to fall within expression an error apparent on the face of the record. The Tribunal assessed market value by referring to the date of acquisition as 27.10.1976. An extract from the aforementioned award would place the aforementioned observation in its right perspective:

Moreover, while assessing the market value of the land the sale transactions round about the date of the notification are to be taken into consideration. Notification in this case has taken place on 27.10.1976 and it has to be seen as to what are the other sale transactions which could be considered for fixing the reasonable and just market value of the acquired land.

26. As noticed in the narrative of facts, the notification, u/s 36 of the Act, (equivalent to a notification, u/s 4 of the Land Acquisition Act), was issued on 1.8.1975 i.e. 14 months before the date, recorded by the Tribunal. This error of fact should, if were exercising appellate jurisdiction, be sufficient to set aside the award. However, for reasons, discussed in the preceding paragraphs of this judgment, we deem it appropriate not to adopt the above course.

27. A significant reason that dissuades us from proceedings to determine the market value is that while doing so, we would be called upon to examine the evidence in detail, appraise its value and record conclusions for or against the conclusions, recorded by the Tribunal. Such an exercise of jurisdiction, in our considered opinion, would be alien to the jurisdiction, conferred upon this Court, under Article 226 of the Constitution of India, except to the limited extent, noticed in *Ludhiana Improvement Trust v. Hari Shanker's case* (supra) and *Jalandhar Improvement Trust, Jalandhar v. Vidya Suri (Smt) and Ors. case* (supra).

28. As regards the question of market value, the first question, we proceed to examine is the belting system, applied and upheld by the Tribunal. The Collector in his award, divided the land into five categories and awarded separate compensation for each category. It would be necessary to notice here that neither the Tribunal nor the Collector assigned any reason for adopting the aforementioned course. The impugned award does not disclose the existence of any material that could have led the Tribunal or the Collector to arrive at a conclusion that different parts of acquired land possessed different market values. The Collector, in fact, specifically noticed, in the award, that from one end to the other, the land is of the same quality, but still proceeded to segregate the land into belts.

29. The belting of acquired land so as to assign different rates to different belts is an acceptable mode of assessing compensation. Where, however, a Court or the Collector resorts to belting of acquired land, they must ensure the existence of material evidence that would lead to an inference that different market rates prevail in different parts of the acquired land. The absence of any material to support the belting of land would render the adopting of such a course illegal. The mere fact that a part of the land abuts the road would, by itself, be a reason insufficient to resort to segregation of land by dividing it into different belts.

30. A perusal of the evidence does not disclose the existence of any material as should have led the Tribunal to a conclusion that the land, situated at the back, was in any manner disadvantaged as regards the land in front. It would also be necessary to notice here that the land in dispute is located within the urban area of Municipal Committee, Phagwara. It is surrounded by residential colonies, abuts the G.T. Road, has roads on all sides. Hotels, industries, a cinema hall, and the civil courts complex lie in close proximity to the acquired land. Counsel for the Improvement Trust was unable to refer to any evidence on record in support of the belting system, applied by the Tribunal.

31. At this stage, it would be necessary to make reference to few relevant judgments of the Hon'ble Supreme Court, as also of this Court, wherein it was held that where land falls within municipal limits, a Court should generally award a single rate for the entire land. In *Gulzara Singh and Ors. v. State of Punjab and Ors.* 1993 LACC 612 (S.C.), the Hon'ble Supreme Court held as follows:

6. Thus we have the evidence that the lands are possessed of potential value for being used for building purposes. In fact, the acquisition itself is for construction of *Mardi Two* ship. The principle of belting, is perfectly legal and unexceptionable as the lands abutting the main road upto a specified depth depending on factual material on record, would fetch higher market rate than the lands situated in interior area. However, on facts of this case the belting is not warranted for the reason that as seen on three sides there exist roads and abutting the village. As per the plan as found by the High Court there exists a road cutting across the acquired lands. Therefore, there is not only access on three sides but also to interior lands. Thus in our view belting and fixation of differential rates of value is

not justified.

32. In *Smt. Shanti and Ors. v. State of Haryana and Ors.* 1994 (2) C.L.J. 777, this Court held as follows:

4. We fail to comprehend the contention of the learned Counsel for the respondents that solely the land being not within the municipal limit, it should have been assessed in blocks. We fail to agree with the contention of learned Counsel for the respondents that in other cases it should be assumed that the land opening on the National Highway would be costlier to such an extent that the back area cannot be treated as one chunk. There is no dispute that the market value can be assessed by adhering to the belting system.

In *Kashmira Singh and Ors. v. The Land Acquisition Tribunal, Ludhiana Improvement Trust through its President and Ors.* 2006 (2) LACC 423, this Court held as follows:

8. From a perusal, it is clear that the acquired land has a lot of potential for being used for residential purposes as the entire land is within the Ludhiana Municipal Limits. The purpose of acquisition is for development of 475 Acres Residential Colony. There is plenty of habitation in and around the land on all sides. The tribunal has awarded Rs. 20/- per square yard (Rs. 600/- per marla) for land upto the depth of 50 karams from the link road whereas for the remaining land compensation has been assessed at Rs. 13/- per square yard (Rs. 393/- per marla). When the purpose of acquisition is one i.e. for setting up of a residential colony and when the entire land falls within the municipal limits then there was no justification in classifying and dividing the land in different blocks and categories. Therefore we are of the considered view that a uniform rate of compensation ought to have been awarded by the Tribunal. In *The Jalandhar Improvement Trust Vs. Vidya Suri (Smt.) and Others*, it has been held by a Division Bench that when the entire acquired land for the scheme was situated within the Municipal Limits of Jalandhar and there was all around development adjoining the acquired land then the land owners were not entitled to be given any differential treatment for various parts of the acquired land and the land could not be treated to be merely agricultural in nature. Thus, there was no justification for dividing the land in different categories for the purpose of awarding compensation.

33. In view of the judgments, noticed herein above, the nature, the location and surroundings of the land, coupled with the absence of any material on record to justify the segregation of the land into different belts, we are satisfied that the Tribunal erred, by ignoring the above noticed facts.

34. In our considered opinion, the Tribunal failed, in the exercise of its jurisdiction, to take into consideration the law, as referred to in preceding paragraphs, as also the facts delineated herein above. However, as this would involve a detailed appreciation of evidence and the recording of findings on disputed questions of fact, it would be appropriate to call upon the Tribunal to

examine the matter afresh.

35. As regards the market value, the Tribunal determined market value @ Rs. 1,400/- per marla. The Tribunal based its above conclusion upon two instances, namely, Ex. A21 and Ex. A.21A.

36. Ex. A21 pertains to an acquisition within municipal limits, where land was acquired for the purpose of setting up of a residential -cum-commercial area. The land, subject matter of Ex. A21, was acquired, pursuant to a notification, dated 3.9.1971, issued u/s 4 of the Land Acquisition Act. The Additional District Judge, Kapurthala awarded compensation at the flat rate of Rs. 850/-per marla. The land owners filed appeals before this Court and eventually, vide order, dated 12.7.1988, passed in R.F.A. No. 144 of 1979, the market value was enhanced to Rs. 1,800/- per marla. The market value, as determined in Ex. A21, i.e. Rs. 850/- per marla, has thus more than doubled to Rs. 1,800/-per marla. This enhancement of market value, awarded in Ex. A21, would necessarily have to be taken into consideration, while determining the market value. Thus, though land, subject matter of Ex. A21 was acquired four years prior to the present acquisition, its proximity to the land of the present case makes Ex. A21 a circumstance upon which, determination of market value can safely be based.

37. In order to support the aforementioned conclusion, a reference would necessarily have to be made to Ex. A21/A. The land, subject matter of Ex. A21/A, was acquired on 27.12.1975 i.e. four months after the present acquisition. The land is situated in village Chachoki, at a little distance from the acquired land. The reference Court assessed market value @ Rs. 3,500/- per marla for land abutting the road and Rs. 3,000/- per marla for the other land. The Reference Court's award was upheld by this Court in a judgment reported as Sarup Singh and Ors. v. Land Acquisition Collector, Urban Development, Punjab, Chandigarh and Ors. (1989) 96 P.L.R. 211. Though the Tribunal relied upon Ex. A21/A, but for reasons that are not discernible from the award, it proceeded to award Rs. 1,400/- per marla for land placed on Block A. It is, thus, apparent that though the Tribunal, relied upon Ex. A21 and Ex. A21/A, no reason was assigned for awarding only Rs. 1,400/- per marla.

38. As the land, subject matter of Ex. A21, appears to adjoin the acquired land, it would, in our considered opinion be the best evidence to determine the market value of the acquired land. As noticed herein above, the rate awarded in Ex. A21 was enhanced to Rs. 1,800/- per marla by the High Court. A time gap of four years exists between the two acquisitions. The acquired land is situated within the urban agglomeration of Phagwara town, in the midst of a developed area.

39. The aforementioned facts disclose an abject failure on the part of the Tribunal to consider relevant law and facts, though some of these facts have come into consideration after the award was pronounced. We are of the considered opinion that the matter, in dispute, should be remitted to the Tribunal for adjudication afresh, in accordance with law, as determination of market value

would involve a detailed appraisal of facts in the shape of evidence.

40. In view of what has been noticed herein above, the writ petitions are allowed, the award, dated 5.5.1987, passed by the Land Acquisition Tribunal, Kapurthala, is set aside and the matter is remitted to the Tribunal. The Tribunal shall make every endeavor to conclude the proceedings within a period of six months from the receipt of a certified copy of this judgment. Any compensation, that may have been received by the land owners, shall be subject to the outcome of the fresh award, to be pronounced by the Tribunal.

No order as to costs.