
(2009) 01 P&H CK 0140

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 844 of 1993

Chanan Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 19-01-2009

Acts Referred:

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

Citation : (2010) 5 RCR(Civil) 283

Hon'ble Judges : Rakesh Kumar Jain, J

Judgement

Rakesh Kumar Jain, J.

1 This judgment shall dispose of seven Regular First Appeals bearing Nos. 844, 845, 846, 847 of 1993, 2 and 3 of 1994 and 3728 of 1993, filed by the claimants against the award of Additional District Judge, Patiala, dated 11.11.1992. Since identical question of law and facts are involved in these appeals, therefore, they are being decided by this common judgment. The facts are taken from RFA No. 844 of 1993.

2 Vide notification dated 09.3.1987, issued under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"), followed by a notification of declaration of the same date issued under Section 6 of the Act, land measuring 12.94 acres situated in village Mehmampur was acquired for the public purpose, namely for the construction of "SalesTax Barrier" at, Shambhu.

3 The Land Acquisition Collector, Rajpura, (for short, "the Collector"), vide his award dated 09.7.1987 awarded compensation for Chahi land (measuring 15 bighas 02 biswas) @ Rs. 40,000/ per acre and for Barani land (47 bighas 02 biswas) @ Rs. 20,000/ per acre, besides awarding all statutory benefits in terms of the provisions of the Amended Act.

4 The landowners were not satisfied with the award of the Collector. They filed objections under Section 18 of the Act and claimed compensation @ Rs. 2,00,000/ per acre, on the ground that the land in question is situated near the

Punjab and Haryana Border and being adjacent to the G.T. Road has possessed high potentiality to be developed into a commercial/residential area. They also pleaded that their land has been severed which has caused damage due to loss of income.

In the written statement filed by the State of Punjab, the claim of the landowners was refuted and it was pleaded that due compensation has already been awarded after taking into consideration all the relevant factors including location and potentiality.

5 Both the parties led their respective evidence. Besides oral evidence, the landowners relied upon following sale deeds :

Sr.No.	Exhibit	Date of sale	Area	BB	Consideration	Rate per acre	Village
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1.	Ex.A5	22.12.1986	005		Rs.5000/	Rs.96,000/	Mehmadpur
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2.	Ex.A6	8.8.1986	005		Rs.5000/	Rs.96,000/	do
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3.	Ex.A7	6.2.1990	006		Rs.12,500/	Rs.2,00,00/	Rajgarh
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4.	Ex.A8	20.9.1991	010		Rs.37,500/	Rs. 3,60,000/	Mehmadpur
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6 The respondent State of Punjab relied upon the sale deeds which are reproduced below :

No.	Sr.	Exhibit	Date of sale	Area	BB	Consideration	Rate per acre	Village
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1.	Ex.R1	05.8.1987	22		Rs.6000/	Rs.12,728/		Mehmadpur
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2.	Ex.R2	8.5.1987	018		Rs.3000/	Rs.16,032/		do
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7 The learned Reference Court rejected the sale deeds Ex.A7 and A8 on the ground that the same pertain to a period more than two years after the issuance of notification under Section 4 of the Act. The sale deeds Exs. A5 and A6 were ignored on the ground that not only these sale deeds relate to a small piece of land, but also these were not found to be genuine because consideration was recorded to have been paid earlier. The learned Reference Court had thus applied guess work in respect of potentiality of the land and awarded 20% more over and above the value of the acquired land assessed by the Collector and awarded compensation for Chahi land @ Rs. 50,000/ per acre and for Barani land @ Rs. 25,000/ per acre. The learned Reference Court also referred to various khasra numbers which were severed from the land due to acquisition The said khasra numbers are as under :

Khasra No.	Total area	Area acquired
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570	518	22
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574	40	114
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581	40	22
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582 40 315

566 40 013

565 40 218

8 On the either side of the road severance of land of Chanan Singh petitioner in case No. 734T/90 is as under:

Kh.No. Total area Area acquired

1035/313 319 309

Severance of land of Kartar Singh petitioner in case No. 735T/90 is as under :

Kh.No. Total area Area acquired

316 40 205

1037/315 20 103

9 In this regard, the learned Reference Court allowed 25% severance charges of the market value of the acquired land. Besides, the learned Reference Court held that the claimants shall not be entitled to solatium and interest @ 12% per annum over the amount of severance.

10 Mr. Gurnam Singh, learned counsel appearing for the appellants has vehemently contended that the learned Reference Court has committed an error while ignoring sale deeds Exs.A5 and A6. It is submitted that it is not a ground to hold the sale deed not to be genuine if it is recited in the sale deed that the amount of consideration has already been taken. The learned counsel has relied upon the sale deeds Exs. A5 and A6 dated 22.12.1986 and 08.8.1986 respectively wherein both the sale deeds of 5 biswas of land each has been sold for Rs. 5000/ which comes to Rs. 96,000/ per acre. The said sale deeds are in respect of land of village Mehmadpur from where the land in question has been presently acquired. Learned counsel for the appellant has further argued that the learned Reference Court has committed an error by awarding severance charges only to the extent of 25% of the market value, while this Court has awarded severance charge of 50% in judgments in the cases of State of Haryana v. Rajinder Kumar, 2000(1) RCR(Civil) 304:2000(1) All India Land Acquisition & Compensation Cases 360, Punjab State v. Gurbachan Singh and others, 1988 PLJ 490, Smt. Narinder Kaur v. The State of Punjab and others 1980 PLR 473, State of Punjab through Collector, Hoshiarpur and another v. Gopal Singh, 2002(1) RCR(Civil) 658: (2002) PLR 843 and State of Punjab through Collector, Hoshiarpur v. Radha Krishan, 1989 All India Land Acquisition and compensation Cases 667, Tehal Singh v. The State of Punjab, 1987 All India Land Acquisition & Compensation Cases 491 and Bishan Dass v. State of Punjab, 1997(4) RCR(Civil) 688:1997(2) PLJ 416.

11 As against this, learned State Counsel has contended that if the sale deeds are found to be genuine even then the same cannot be taken into consideration

because it pertains to a small piece of land and cannot be set up as an example for the purpose of reassessing the compensation.

12 I have heard learned counsel for the parties and have perused the record with their assistance.

13 The learned reference Court has erred in ignoring the sale deeds Exs.A5 and A6, pertaining to the same village and are prior to the date of notification, on the ground that since the sale consideration has been paid earlier by the vendor to the vendee, therefore, they are not genuine sale deeds. This observation is totally irrelevant. However, I am in agreement with the argument raised by the learned counsel for the State that the land in Exs.A5 and A6 pertains to a small piece of land of 5 biswas only vis-a-vis 12.94 acres of acquired land, therefore, normal cut of 1/3rd should be applied. Thus, after applying a cut of 1/3rd in the value of sale deeds Ex. A5 and A6, it comes to Rs. 64,000/. In my view, the appellants/landowners are entitled to compensation to the extent of Rs. 64,000/ for Chahi land.

14 Reverting back to the second argument of the learned counsel for the appellant that severance charges allowed by the learned Reference Court @ 25% of the market value of the unacquired land should have been 50%. I am in full agreement with the argument raised by the learned counsel for the appellants that in view of the decision of this Court rendered in the cases of State of Haryana v. Rajinder Kumar, 2000(1) All India Land Acquisition & Compensation Cases 360, Punjab State v. Gurbachan Singh and others, 1988 PLJ 490, Smt. Narinder Kaur v. The State of Punjab and others, 1980 PLR 473, State of Punjab through Collector, Hoshiarpur and another v. Gopal Singh, (2002) PLR 843 and State of Punjab through Collector, Hoshiarpur v. Radha Krishan, 1989 All India Land Acquisition and compensation Cases 667, Tehal Singh and others v. The State of Punjab and another, 1987 All India Land Acquisition & Compensation Cases 491 and Bishan Dass v. State of Punjab, 1997(2) PLJ 416. (supra), severance charges has to be awarded @ 50% of the market value of the unacquired land instead of 25%. In view of above, the finding of the learned Reference Court on issue No. 2 is modified and the appellants are held entitled to the severance charges @ 50% instead of 25% as given by the learned Reference Court.

15 With this modification in the judgment of the learned Reference Court, the appeals filed by the landowners/claimants are allowed. They are held entitled to compensation @ Rs. 64,000/ per acres from the date of issuance of notification under Section 4 of the Act, besides all the statutory benefits in terms of the provisions of the Amended Act. They shall also be entitled to severance charges @ 50% > instead of 25% of the land which has been severed to due to acquisition. The appellants are also held entitled to the costs of the appeals.