
(1991) 04 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1270 of 1985

Charanjit Bajaj and Others	Vs	APPELLANT
The State of Haryana and Others		RESPONDENT

Date of Decision : 10-04-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1992) 1 ILR (P&H) 83

Hon'ble Judges : G.C. Mital, Acting C.J.; Harjit Singh Bedi, J

Bench : Division Bench

Advocate : M.L. Sarin, Hemant Sarin, Alka Sarin and R.S. Cheema, for the Appellant; S.C. Mohanta, A.G., Ashutosh Mohanta and Jaivir Yadav, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Harjit Singh Bedi, J.—By this judgment. Civil Writ Petitions Nos. 1283 of 1985, 13299, 14678, 6549, 8555, 7229, 13689. 14665, 11471. 14662, 8484. 16866, 13345, 12081 and 10883 of 1990 are being disposed of. The facts have been taken from C.W.P. No. 1270 of 1985.

2. The present writ petitions have a chequered history. The Petitioners filed the writ petitions challenging the legality of notice, Annexure P-7 to the writ petition, inter alia, on the ground that no enhancement could be made in the price of the plots. Vide this Court's D.B. judgment dated 8th July, 1986, it was held that the Petitioners were bound to pay the enhanced price of the plots which had been claimed from them, but the Respondents were not entitled to charge any interest from the Petitioner-plot holders for the period intervening between the deposit of compensation and the issue of notice, Annexure P-7. Aggrieved by the order of the Division Bench, the Petitioners, along with some others, approached the Supreme Court by way of Special Leave Petitions. The Hon'ble Supreme Court in its order dated 5th February, 1990, observed as under:

We have heard Mr. Rao in support of the special leave petitions. His main grievance is that the stand taken before the High Court by the Petitioners has not been properly analysed and appreciated. The contention of the Petitioners was that the property had been acquired for two purposes, namely, commercial and residential. Out of 10.22 acres only about 2.80 acres was likely to yield 2.8 crores and that amount was sufficient to take the burden of the enhanced compensation for the entire land granted by the Court on reference u/s 18 of the Land Acquisition Act. Therefore, the residential allottees should not have been made to bear brunt of escalation. This aspect does not seem to have been dealt with by High Court. It is open to the Petitioners, if they are so advised, to ask the review before the High Court, In case the review petition is filed, limitation for the same may be taken to commence from the date of this order. With these observations, the special leave petitions are disposed of.

Sd/- Ranganath Misra, J. Sd/- R. Ramaswamy, J.

In pursuance of the order quoted above, a review application was filed and,--vide orders dated 7th February, 1990. the same was allowed and the earlier order dated 8th July, 1986, recalled with a further direction to rehear the writ petitions for considering the point which was raised before the Supreme Court and not dealt with by this Court in its earlier judgment.

3. After hearing the counsel for the parties, we adopt and reiterate the judgment of the Division Bench decided on 8th July, 1986, on the points decided therein. Mr. M.L. Sarin, learned Senior Advocate, appearing for the Petitioners has additionally contended that as the plots were sold to the Petitioners on a no profit no loss basis, it was just and fair that the burden of the enhanced compensation should be taken care of by the sale of commercial property which has, in fact, been sold at very high rates.

4. In reply, Mr. S.C. Mohanta, learned Advocate-General Haryana, has urged that if this argument is accepted it would virtually restrict all developmental activity. He has also urged that as the developmental activities go on over a long period and improvements are made on a continuing basis, it would not be possible to correlate the commercial property to the residential plots and to draw up a balance-sheet determining the surplus amount available from the sale of commercial property which could be utilised for paying the enhanced compensation for the land given for residential plots. He has further urged that Clause (4) of the allotment letter, Annexure P-2, issued to the Petitioners, specifically provides for the enhancement of the price of the plot in case of enhancement of compensation for acquisition of the land of this sector by the court or otherwise.

5. After hearing the learned Counsel for the parties, we are of the view that these petitions, even on the additional points raised, cannot succeed in toto. If, Mr. Sarin's argument could be taken to its logical conclusion, than if the sale of commercial property brought in enough funds to take care of the entire compensation to be paid to the landowners, no price for the plots ought to have

been charged from the Petitioners. It is also to be borne in mind that as a consequence of the development of the commercial area the residential plot holders also share in the resultant price escalation. We also agree with Mr. Mohanta that it would be impossible to draw up a balance-sheet with mathematical exactness so as to determine the surplus amount of funds available for being utilised to pay for the enhanced compensation of the residential plots.

6. An additional argument has been raised by Mr. Sarin in C.W.P. No. 16866 of 1989 that the Respondents have discriminated against the Petitioners and certain other organizations with regard to the burden of sharing of the enhanced compensation and in the case of others, only 55 percent of the area has been taken into account for getting the balance enhanced amount. This argument is also without force. The residential plot holders have been given fully developed plots with all amenities like approach roads etc., whereas, the organizations aforementioned have been given large areas wherein certain area would be left out for the purpose of roads and other civic amenities. We are, therefore, of the view that the judgment of the Division Bench dated 8th July, 1986, is sound in all respects and no interference is called for. The present writ petitions are, therefore, allowed in the terms of the judgment of the Division Bench dated 8th July, 1986. We order accordingly.