

(2009) 04 P&H CK 0279
In the Punjab And Haryana At Chandigarh

Dalip Singh (deceased) through LRs. and Others	APPELLANT
Vs	
State of Punjab and Another	RESPONDENT

Date of Decision : 27-04-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2010) 158 PLR 664

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Judgement

Rajesh Bindal, J.—This order shall dispose of above mentioned 14 appeals, as the same arise out of a common acquisition.

2. The land owners are in appeal against the award of the learned court below seeking further enhancement of compensation for the acquired land.

3. The facts have been noticed from Rule F.A. No. 1774 of 1994.

Briefly, the facts are that the land in question, situated in village Zahadpur was acquired by the State Government vide notification dated 20.11.1986, issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act") for the purpose of constructing proposed Shah Nehar Feeder No. 2 from KM. 2.216 to 3.467 KM, in District Hoshiarpur. The Land Acquisition Collector (for short, "the Collector") assessed the market value of the acquired land @ Rs. 20,000/- per acre for Nehri and Gair Mumkin kind of land. Aggrieved against the award of the Collector, the land owners filed objections which were referred to the learned Additional District Judge, Hoshiarpur, who keeping in view the material placed on record by the parties, assessed the market value of Nehri land @ Rs. 160/- per Maria and upheld the remaining award.

4. Learned Counsel for the land owners raised two-fold arguments, namely, that the learned court below has failed to consider the sale deed (Ex.A1), which was registered on 7.11.1986 for a big chunk of land measuring 8 kanals and 5 marlas, considering the same to have been registered quite close to the

notification u/s 4 of the Act, which was issued on 20.11.1986. The submission is that even if the sale deed was registered quite close to the acquisition, the same should not have been discarded as such. It was not a sham transaction. Had the effort been to create evidence, the transaction entered into would not have been for such a big chunk of land, as it could be for a smaller portion. Another submission raised is that admittedly on account of acquisition of land for construction of Shah Nehar Feeder No. 2, the land of the land owners has been bifurcated, as has been noticed by the learned court below as well in the impugned award. However, still damages on account of severance has been granted only @ 10%. Relying upon the judgment of this Court in Surjit Singh and Ors. v. State of Punjab through Land Acquisition Collector and ors. (2008-2) 150 P.L.R. 763, the submission is that the land owners are entitled to severance at least @ 50%.

5. On the other hand, learned Counsel for the State submitted that sale deed (Ex.A1) cannot possibly be relied upon as the same was registered by one of the persons, whose land was to be acquired merely 13 days thereafter. The effort was just to create evidence as the vendor was interested party. Both the vendor and the vendee belonged to the same village. In the absence thereof, there is no material on record on the basis of which the award of the learned court can be interfered with.

6. As regards damages on account of severance is concerned, the submission is that the land owners have been sufficiently compensated for that and the award to that effect does not call for any interference.

7. Heard learned Counsel for the parties and perused the relevant referred record.

8. As far as sale deed (Ex.A1) is concerned, in my opinion, no illegality has been committed by the learned court below while not placing reliance thereon for the purpose of assessment of fair value of the acquired land inspite of the fact that the same was forming part of the acquired land. The reason is plain and simple. The vendor is none else the person whose land was to be acquired. Notification u/s 4 of the Act was issued on 20.11.1986 and the sale deed was registered merely 13 days prior thereto on 7.11.1986. It is a case of acquisition of land for construction Shah Nehar Feeder No. 2, for which certainly survey must have been conducted prior thereto, only then process of acquisition started. There is no other evidence referred to by the counsel for the land owners in support of the claim for assessment of fair value of land. Accordingly, as far as the value of the land, as has been assessed by the learned court below is concerned, I do not find any reason to interfere with the impugned award.

9. As far as claim of severance is concerned, a definite finding has been recorded by the learned court below that the acquired land had divided the land holding of the land owners and in few cases, left over portion on one side of Shah Nehar Feeder No. 2, which made it impossible or difficult for them to irrigate or cultivate the left out portion of the land. The learned court below has assessed

damages on account of severance @ 10% for the unacquired land which, in my opinion, certainly deserves some appreciation. Compensation @ 30% of the value of the acquired land shall be reasonable amount on account of damages for severance. Ordered accordingly.

The appeals are disposed of in the manner indicated above.