
(2010) 03 P&H CK 0263
In the Punjab And Haryana At Chandigarh

Daljeet Singh and Another and Gurvinder Singh Oberoi and Others APPELLANT

Vs

The District Judge and Others RESPONDENT

Date of Decision : 04-03-2010

Acts Referred:

Punjab Town Improvement Act, 1922 — Section 42(1)

Citation : (2010) 03 P&H CK 0263

Hon'ble Judges : M.M. Kumar, J;Jitendra Chauhan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This order shall dispose of CWP Nos. 3519 and 3520 of 2003, which have been filed by the land owners seeking modification of the award dated 11.6.2002, passed by the Land Acquisition Tribunal, Improvement Trust, Bathinda-respondent No. 1 (for brevity, ?the Tribunal?), to the extent that the compensation awarded at the rate of Rs. 20,52,784/- per acre of the acquired land may be further enhanced upto Rs. 10,000/- per square yard. The petitioners have claimed that as per the findings recorded by the Tribunal the land in question falls within the municipal limits and had the potential to be used for residential, commercial and industrial purposes at the time of issuance of notification dated 31.8.1994 u/s 42(1) of the Punjab Town Improvement Trust Act, 1922 (for brevity, ?the Act?).

2. Brief facts of the case are that land measuring 49.50 acres was acquired for development of a Scheme prepared by the Bathinda Improvement Trust, Bathinda, under the provisions of the Act. On 4.9.1993, a notification u/s 36 of the Act was issued followed by notification u/s 42(1) of the Act, dated 31.8.1994. The Collector determined the compensation in respect of the acquired land in two blocks - (i) at the rate of Rs. 20.52 lacs per acre (about Rs. 424/- per sq. yard) for gair mumkin land; and (ii) at the rate of Rs. 8 lac per acre for barani land. The Improvement Trust did not challenge the award but the land owners

preferred various references to the Tribunal u/s 18 of the Land Acquisition Act, 1894. The Tribunal vide its award dated 11.6.2002, held that entire land was required to be evaluated at a uniform rate i.e. Rs. 20.52 lacs per acre. The relevant findings recorded by the Tribunal about the location and nature of the land, being relevant to the present context, are reproduced as under:

12. The oral statements of Devinder Singh (AW.1), Jatinder Kumar (AW.2), Harnek Singh (AW.7), Abhey Singla, Advocate (AW.8) and A.C. Goyal (AW.9) leave no doubt in our mind that the land in question has been situated within the municipal limits of district Bathinda at the time of acquisition of the land. Near the acquired land, there has been developed residential colonies and other industrial and commercial properties. At the relevant time, the land was lying vacant and was not being used for agricultural purposes. The land in question could be used for residential, commercial and industrial purposes.

xxx xxx xxx xxx

15. ...In this manner we have found that the whole of the land was lying vacant and was not being used for agricultural purposes. The land has been proved to be even. Respondent has not produced any evidence that they spent money on making the land even and filled ditches and pits. The Collector has not mentioned in the award that the land was low lying and it had pits. In such a situation there was no justification for classifying the land into the Gairmumkin land and Barani land. The learned Land Acquisition Collector could not grant different types of compensation for gairmumkin and barani land when the land is located at the same place and was fit for residential, commercial and industrial use. The Land Acquisition Collector could not treat the equals as unequal and grant compensation at different rates without assigning any cogent reason. The Land Acquisition Collector did not assign any reason for granting compensation at different rates when the land was acquired by the same notification. ...

3. On behalf of the claimants reliance was placed, inter alia, on Exhibits A-5 and A-6, which were the sale deeds dated 4.12.1993 and 18.1.1993 respectively, showing the rate about Rs. 500/- per square yard. The Tribunal held that the said instances could not be made basis for determining market value of the entire land as they related to small plots of land. For the same reason, instances Exhibits A-11 to A-13 were also not made the basis for grant of compensation.

4. Against the award dated 11.6.2002, passed by the Tribunal a large number of writ petitions were filed in this Court both by the Improvement Trust and the land owners like the present petitioners. The Improvement Trust challenged the award primarily on the ground that the Tribunal ought not to have disturbed the categories determined by the Collector, whereas the land owners supported the finding recorded by the Tribunal that since the land in question was contiguous, similar and forms compact chunk, there was no justification for awarding different types of compensation. In the writ petitions filed by the land owners similar prayer as sought in the instant petitions, was made.

5. On 3.3.2009, a bunch of 134 writ petitions, out of which 98 were filed by the Improvement Trust and 36 filed by the land owners, including CWP No. 15326 of 2002 (Bhikam Singh and Anr. v. The District Judge, Bathinda and Ors.) came up for consideration before a Division Bench of this Court (of which one of us, Jitendra Chauhan, J. was also a member). The Division Bench dismissed all the writ petitions by observing as under:

Learned Counsel for the Improvement Trust in support of writ petitions filed by the Trust, submitted that the categories determined by the Collector should not have been interfered with.

Learned Counsel for the Trust is unable to show any error in the findings that the entire land is identical. The same formed one compact block.

Learned Counsel for the land owners support the said finding by submitting that land being contiguous and being similar and forming compact chunk, there was no justification for awarding different types of compensation. Reliance has been placed on the judgment of Hon"ble Supreme Court in Union of India (UOI) Vs. Harinder Pal Singh and Others, and judgment of Division Bench of this Court in Hissar Improvement Trust v. President, Tribunal Improvement Trust, Hissar and Ors. 2005(4) RCR (Civil).

We do not find any ground for interfering with the finding of the Tribunal that the entire land is compact and has to be valued at uniform rate. This being the position, judgments relied upon on behalf of land owners are fully applicable. Thus, we do not find any merit to allow the writ petitions filed by the Improvement Trust. The same will stand dismissed.

Coming now to the writ petitions filed by the land owners, only contention raised on their behalf is that there are sale instances Exhibits A-11 to A-13, which are of the year 1997, wherein land sold to Cotton Corporation of India at the rate of Rs. 3,000/- per sq. yard. By referring to the judgment of Hon"ble Supreme Court in Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona and Anr. AIR 1988 S.C. 1653 it was submitted that even post notification instances could be taken into account if they are very proximate, genuine and not motivated by the acquisition itself.

We are unable to hold that case of the land owners falls under the parameters law laid down by the Hon"ble Supreme Court for taking into account by post notification instances, as the said instances are four years after the acquisition and not "very proximate".

Acquisition was in the year 1993 and sale instances were in the year 1997. The said instances cannot, thus, be basis for determining compensation as on 4.9.2003.

We are also of the view that if two views are possible, finding of tribunal will not be liable to be interfered with in exercise of writ jurisdiction.

Thus, no ground is made for allowing the writ petitions filed by the land owners also. The same will also stand dismissed.

All the writ petitions are, accordingly, dismissed.

6. The present petitioners have filed applications, bearing C.M. No. 439 of 2010 in CWP No. 3519 of 2003 and C.M. No. 1186 of 2010 in CWP No. 3520 of 2003, praying that both petitions may also be decided in terms of the order dated 3.3.2009 passed in CWP No. 15326 of 2002. Notice of C.M. No. 439 of 2010 was issued on 18.1.2010. In response thereto Mr. H.S. Sethi has put in appearance on behalf of the respondents in both the petitions. No objection has been raised by him. Accordingly, these petitions are dismissed in terms of the order dated 3.3.2009 passed by the Division Bench in CWP No. 15326 of 2002 (Bhikam Singh and Anr. v. The District Judge, Bathinda and Ors.).

7. The office is directed to place a copy of this order on the file of connected CWP No. 3520 of 2003.