
(2009) 05 P&H CK 0129
In the Punjab And Haryana At Chandigarh

Dharamvir

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 01-05-2009

Acts Referred:

Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 7, 8

Citation : (2009) 155 PLR 425 : (2009) 3 RCR(Civil) 168

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J.—Identical question of law and facts are involved in the appeals Nos. 975, 983 & 1049 of 1988, 879, 881 & 900 of 1989 out of which three appeals bearing Nos. 975, 983 & 1049 of 1988 have been filed by the claimants and three appeals bearing Nos. 879, 881 & 900 of 1989 have been filed by the Union of India against the impugned award of the Additional District Judge, Gurdaspur dated 6.8.1988.

2. Broadly stated, the facts of the case are that vide notification issued u/s 7 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (in short "the Act") dated 20.3.1970, the falling land of village Mamoon, Tehsil Pathankot was acquired by the Union of India for defence purposes. The description of acquired land, of three claimants is as under:

Sr. Name of Land owners Description of Property No. Khasra No. Area

1. Dharm Vir son of Rup Lal, son of Bhagat Ram 1547 7-11 2. Vijay Kumar, son of 1584 3-02 Dharam Chand son of 1585 1-00 Diwan Chand Bhushan 1586 6-01 Kumar son of Rup Lal 1588 0-04 son of Bhagat Ram. 1589 0-07 1590 0-02 3. Vijay Kumar son of 1587 6-00 Dharam Chand, 1568 5-06 Dharamvir son of Rup Lal v. Pathankot.

3. The compensation awarded by the Special Land Acquisition Collector (in short

"the Collector") was found to be inadequate, therefore, claimants sought the appointment of an Arbitrator. u/s 8 of the Act, vide Punjab Govt. Department of Home Affairs and Justice notification No. 11/4/85-5H(V)/6977 dated 1.3.1980, Arbitrator was appointed to determine the amount of compensation payable and to specify the persons to whom it is to be paid.

4. The learned Arbitrator after taking into consideration the evidence available on record assessed the compensation of the land acquired in village Mamoon @ Rs. 200/- per Maria and awarded 30% solatium and interest @ 9% per annum for the first year from the date of taking possession and @ 15% per annum for the subsequent years till the date of payment.

5. Aggrieved against the award of the Arbitrator dated 6.8.1988, both the claimants and Union of India have filed their appeals. In the appeals filed by the claimants, they have claimed enhancement of compensation in respect of the acquired land whereas in the appeals filed by the Union of India, the main award stand challenged on the ground that the compensation @ Rs. 200/- should not have been granted and the claimants could not have been awarded solatium and interest because there is no provision in the Act in this regard.

6. Mr. R.S. Manhas, learned Counsel appearing on behalf of the claimants/appellants has vehemently contended that land of village Mamoon, Lamin and Bhadroya was acquired u/s 7 of the Act vide notification dated 13.3.1970. The matter of acquisition of the aforesaid land came up before Single Bench of this Court in the case F.A.O. No. 39 of 1978 titled as "Shankar Singh and Ors. v. Union of India" decided on 6.4.1983 by Hon'ble Mr. Justice I.S. Tiwana in which Rs. 200/- per Maria was awarded at a flat rate. The said judgment in F.A.O. No. 39 of 1978 was further challenged by Shankar Singh etc. by way of L.P.A. No. 658 of 1983 which was allowed by a Division Bench vide order dated 5.10.1987 and compensation @ Rs. 350 per Maria was awarded. It is, thus, submitted that once the amount of compensation in respect of the land of village Mamoon, which was acquired on 13.3.1970 has been settled @ Rs. 350/- per Maria by the Division Bench of this Court, then compensation for the land of the same village, which has been acquired on 20.3.1970 i.e. 7 days after the date of acquisition in the case of Shankar Singh etc., could not be less than Rs. 350/- per Maria.

7. On the other hand, Mr. Rajiv Sharma, learned Counsel appearing on behalf of the Union of India, has vehemently argued that Rs. 350/- per Maria cannot be granted because the land of the claimant is comparable only with the land of Shanti Devi and others who have been awarded Rs. 200/- per Maria vide Ex.A-5.

8. After hearing learned Counsel for the parties, I am of the view that the appeals filed by the claimants for the purpose of further enhancement of compensation deserves to be allowed because in the present case, the land was acquired on 20.3.1970 in village Mamoon, whereas in the same village, land was earlier acquired for the same defence purposes on 13.3.1970, in which Single Bench of this Court determined compensation @ Rs. 200 per Maria vide his order

dated 6.4.1983 which has been further enhanced by the Division Bench of this Court in L.P.A. No. 658 of 1983 to the tune of Rs. 350/- per Maria. Therefore, I do not find any justification in adopting a different yardstick for the purpose of determination of compensation in the present case. Thus the compensation for the acquired land is enhanced to Rs. 350 per Maria.

9. Mr. Rajiv Sharma, learned Counsel appearing on behalf of the Union of India while arguing his appeals has vehemently contended that the claimants have been awarded solatium @ 30% and interest @ 9% in view of the decision of the Full Bench of this Court in the case of "Hari Krishan Khosla (dead) and Ors. v. The Union of India and Anr. (1974) 76 P.L.R. 658 (F.B.), which has been specifically overruled by the Supreme Court in the case of Union of India (UOI) Vs. Hari Krishan Khosla (Dead) by Lrs., and it has been further held in the case of "Union of India v. Chajju Ram (Dead) by LRs and Ors. (2003)134 P.L.R. 740 (and Dayal Singh and Others Vs. Union of India (UOI) and Others, that solatium and interest cannot be awarded as the Act is silent in this regard.

10. Faced with this situation learned Counsel for the claimant has argued that the land was acquired in the year 1970 whereas the Arbitrator has given his award on 6.8.1988 after about 18 years, therefore, the claimants are entitled to interest at least @ 6% on equitable grounds in terms of the decision of the Supreme Court in the case of "Union of India v. Parmal Singh and Ors. J.T. 2008 (12) S.C. 611 and a decision of this Court in F.A.O. No. 1319 of 1989 titled as "Smt. Lalita Pathania and Ors. v. Randip Singh Pathania and Ors. decided on 2.4.2009.

11. After hearing learned Counsel for the parties, I am of the view that the award of solatium and interest which is based on the decision of the Full Bench of this Court which has been overruled by the Supreme Court cannot be granted to the claimants. However, they shall be entitled to 6% interest per annum from the date of acquisition till the date of payment in terms of the order passed by the Supreme Court in the Case of Union of India v. Parmal Singh and Ors. (supra) and the order passed by this Court in the case of Smt. Lalita Pathania and Ors. v. Randip Singh Pathania and Ors. (supra).

12. In view of the above discussion, the appeals filed by the claimants are allowed and they are held entitled to compensation @ Rs. 350/- per Maria with the costs of these appeals, whereas the appeals filed by the Union of India are allowed to the extent that the claimants shall not be entitled to the amount of solatium and interest except for 6% interest per annum from the date of acquisition till the date of payment. The Union of India shall bear their own costs.