

(2013) 08 P&H CK 0490

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 2635 of 2004 (O and M)

Dr. R.L. Mittal and Others

APPELLANT

Vs

Improvement Trust

RESPONDENT

Date of Decision : 07-08-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2)

Citation : (2013) 08 P&H CK 0490

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Vikas Mohan Gupta and Ms. Sonal Dutta, for the Appellant;

Judgement

K. Kannan, J.—The revision is against the order of Executing Court declining to entertain the execution petition for certain claims made by the decree-holder pursuant to the award of compensation determined under the Land Acquisition Act, against a decision for Rs. 93/- per square yard determined by the Reference Court. In appeal to this Court, the compensation was enhanced to Rs. 97.34 per square yard through a judgment delivered in Civil Writ Petition No. 2446 of 1987, dated 04.06.1991-Davinder Singh and others Versus The Land Acquisition Tribunal and others. The award also stated that the landowners would be entitled to all the statutory benefits. When the decree was put in execution, the decree-holder claimed the benefit of Section 23(1-A) and Section 23(2) of the Land Acquisition Act regarding the amount of compensation for the additional amounts determined and for solatium at 30%. The Executing Court has observed that the Court has not specifically provided for the additional benefits brought through Section 23(1-A) and Section 23(2) of the Land Acquisition Act. Although the award of the Land Acquisition Tribunal as well as the High Court have been rendered after the passing of the Amendment Act of 1984, the benefits of Section 23(1-A) and Section 23(2) under the Land Acquisition Act are also afforded to the landowners, whose lands were acquired under the Improvement Trust Act. Consequently, the benefits of the said Act would also be attracted. The

absence of any specific direction relating to the legal provisions ought not to make any difference when there is a reference to entitlement of all statutory benefits and the claim made by the decree-holder was, therefore, perfectly justified. In the manner of reckoning of the amount payable, yet another objection, which was taken against the decree-holder, was that the decree-holder/purchaser ought not to be provided with compensation more than the actual sale consideration. It appears that in some cases where the original landowners whose lands were acquired had been sold to third parties in various parcels, compensation had been awarded only to the extent of sale consideration and not at the rate which was afforded to the original landowners. This aspect was actually dealt with by this Court in the aforesaid judgment in Civil Writ Petition No. 2446 of 1987 and the Court found that the original landowners as well as the purchasers would all be entitled to compensation at Rs. 97.34 per square yard. Both the objections taken against the landowners and rejecting the claim as made in the execution petition by the Execution Court were erroneous and they are liable to be set aside and, accordingly, set aside. The civil revision is allowed. The execution shall be levied on the amounts claimed through further process for any balance which still remains payable.