
(2010) 05 P&H CK 0175
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9153 of 2005

Gunwant Kaur

APPELLANT

Vs

Improvement Trust, Bathinda and Others

RESPONDENT

Date of Decision : 20-05-2010

Acts Referred:

Punjab Town Improvement Act, 1922 — Section 24, 28(2), 36

Citation : (2010) 4 PLR 18 : (2010) 3 RCR(Civil) 660

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

Judgement

M.M.Kumar, J.

1 This order shall dispose of aforementioned six petitions filed by the land owners, challenging award dated 11.6.2002 (P2) passed by the Land Acquisition Tribunal, Improvement Trust, Bathinda (for brevity, "the Tribunal). The petitioner(s) have sought enhancement amount of compensation of the acquired land.

2 Facts of these petitions are that on 1.9.1993, a notification under Section 36 of the Punjab Town Improvement Act, 1922 (for brevity, "the Act") was issued for acquisition of 49.50 acres of land for the development of a scheme known "49.50 Acres Development Scheme", which was formulated by the Improvement Trust, Bathindarespondent No. 1 (for brevity, "the Trust) under Section 24 read with Section 28(2) of the Act. On 31.8.1994, another notification under Section 42(2) of was issued by the Punjab Government sanctioning a development scheme. Pursuant thereto land measuring 49.50 acres was acquired for the development of said Scheme. The Collectorrespondent No. determined compensation for the acquired land in two blocks at the rate of 20.52 lacs per acre (about Rs. 424/ per sq. yard) for gair murnkin and Rs. 8 lac per acre for barani land, vide award dated 29.8.1996. The Trust did not challenge the award but the land owners preferred reference to the Tribunal under the provisions of the Act. On 11.6.2002, the Tribunal passed the award holding that the entire land was required to be evaluated at a uniform rate of Rs. 20.52 lacs per acre (P2). The

findings of the Tribunal about the location and nature of the land reads thus :

"12..... The oral statements of Devinder Singh (AW. 1), Minder 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.

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 the sale deeds dated 4.12.1993 and 18.1.1993 respectively (Exhibits A5 & A6) showing the rate of about Rs. 500/ per Sq. 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 A11 to A13 were also not made the basis for grant of compensation.

4 Civil miscellaneous applications have been filed in each case of the present bunch of petitions seeking disposal of the petitions. A perusal of the application shows that the award dated 11.6.2002 passed by the Tribunal was subject matter of challenge in a number of petitions which were grouped together. On 3.3.2009, a bunch of 134 petitions came up for consideration before the Division Bench including CWP No. 15326 of 2002 (Bhikam Singh and another v. The District Judge, Bathinda and others) being the lead case. The Division Bench (of which one of us, Jitendra Chauhan, J. was a member) affirmed the award passed by the Tribunal and dismissed the writ petitions vide order dated 3.3.2009, by observing as under :

"8. 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.

9. Coming now to the writ petitions filed by the land owners, only contention raised on their behalf is that there are sale instances Exhibits A11 to A13, 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 another, A.I.R. 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.

10. 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".

11. 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.

12. 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.

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

14. All the writ petitions are, accordingly, dismissed."

5 Therefore, for parity of reasoning we also dismiss these petitions in terms of Division Bench judgment dated 3.3.2009, rendered in the case of Bhikam Singh and another (supra) and connected cases.

6 As a sequel to the above discussion these petitions fail and the same are accordingly dismissed.

7 A photocopy of this order be placed on the files of connected cases. Petition dismissed.