
(2009) 05 P&H CK 0127
In the Punjab And Haryana At Chandigarh

Harbans Singh and Pishori Lal	Vs	APPELLANT
State of Haryana		RESPONDENT

Date of Decision : 05-05-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2009) 05 P&H CK 0127

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—This order will dispose of the above mentioned two 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 taken from R.F.A. No. 2775 of 1994.

4. Briefly, the facts are that the land measuring 30 kanals and 13 marlas, situated in village Gharaunda, Hadbast No. 27, Tehsil Karnal was acquired by the State Government vide notification dated 22.5.1989, issued u/s 4 of the Land Acquisition Act, 1894 (for short, 'the Act'). The Land Acquisition Collector (for short, 'the Collector') assessed the market value of the acquired land @ Rs. 1,49,995/- per acre. Aggrieved against the award of the Collector, the land owner filed objections which were referred to the learned Additional District Judge, Karnal, who keeping in view the material placed on record by the parties, upheld the award of the Collector.

5. Learned Counsel for the land owners submitted that the evidence led by them on record to discharge the onus that value of the acquired land, as had been determined by the Collector, was not just and fair, has not been considered by the learned court below at all. It had failed to appreciate the fact that the land is

situated within the municipal limits of Gharaunda, which was part of Ward No. 7. It was surrounded by urbanised area, where residences, poultry farms and cold storages were there in the vicinity. It was merely six acres away from G. T. road. At a distance of about one acre was cremation ground. Hanuman Mandir was also situated one killa away.

6. Sale deed (Ex. P2), which was forming part of the acquired land, was totally ignored and due weightage was not given to sale deeds (Ex. P10 and Ex. P11), which were registered about 4 years prior to the date of acquisition. The learned court below committed error in noticing the consideration paid in sale deeds (Ex. P10 and Ex. P11), which comes out to Rs. 29.17 per square yard, whereas it has been noticed as Rs. 22/- per square yard. Considering the fact that these sale deeds were registered 4 years prior to the acquisition, the land owners are also entitled to further increase @ 12% per annum. Sale deeds (Ex. P14 and Ex. P15) were also referred to, whereby small plots of land were sold. He further submitted that observations of the learned court below that due to control on terrorism in the State of Punjab, the value of land in the neighbouring State of Haryana had started decreasing, was totally uncalled for. The acquisition was carried out in May, 1989 and the fact that at that time no general elections could take place in the State of Punjab due to disturbed conditions.

7. On the other hand, learned Counsel for the State submitted that the sale deeds, which were sought to be relied upon by the land owners are pertaining to small pieces of plots located in the urban area with civic amenities. Even if reliance is placed thereupon, considering the fact that the acquisition is for 30 kanals and 13 marlas of land, a reasonable cut of at least 30% is required to be applied thereon and if the same is applied, the amount, as has been awarded by the Collector would be just and fair. He further submitted that location of the land was not strategic. Even though it was within the municipal limits of Gharaunda but in the evidence led by the land owners themselves, it had come on record that the same was surrounded by cold storages, poultry farms and even cremation ground was merely one acre away. He further submitted that at the time of acquisition, the land was being put to agricultural use and it did not have any approach through a metalled road. Considering the aforesaid facts, no fault can possibly be found with the award of the learned court below.

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

9. As far as the location of the land is concerned, it is a fact that it is close to the abadi of village Gharaunda and about 6 acres away from G. T. road. It RFA No. 2775 of 1994 [3] had no approach by a metalled road at the time of acquisition. The cremation ground was at a distance of about one acre. There were poultry farms in the vicinity.

10. As far as relevance of the evidence led by the land owners is concerned, reference was made to sale deeds (Ex. P2, Ex. P10, Ex. P11, Ex. P14 and Ex. P15). As far as sale deed (Ex. P14) is concerned, it was for a plot measuring 175

square yards, the exact location of which was not shown, but it was in some abadi and considering its location with infrastructure facilities available, the same was rightly held to be not a comparable sale transaction, which could be relied upon for the purpose of determination of fair value of the acquired land. As far as sale deed (Ex. P15) is concerned, the same was registered on 4.4.1991, nearly 2 years after the acquisition. Accordingly, the same is also not found to be relevant.

11. As far as sale deed (Ex. P2) is concerned, the same cannot be relied upon for the reason of its having been registered quite close to the acquisition and the vendor being none else than the person whose land was acquired. It is a small plot of land measuring 50"x30" located on some road. The sale consideration was shown to be quite exorbitant, as compared to other sale instances produced on record.

12. There are two other sale deeds (Ex. P10 and Ex. P11). The same are pertaining to 16 marlas of land each, which were registered on 17.4.1985 and 21.3.1985 respectively, for a total consideration of Rs. 14,000/- each. It has been noticed by the learned court below that the same is situated at a distance of about four acres from the acquired land. The average value thereof comes out to Rs. 29.16 per square yard, which has been wrongly noticed by the learned court below at Rs. 22/- per square yard. The contention of learned Counsel for the land owners is that the appellants are entitled to further increase thereon for the time gap of about 4 years. Even if that is considered and increase of 10% per annum is granted thereon for the time gap of 4 years, the value thereof comes out to Rs. 40.83 per square yard. Even if a reasonable cut of 20% is applied, considering the fact that the area dealt with in the aforesaid two sale deeds was merely 16 marlas, whereas the acquired land was a big chunk of 30 kanals and 13 marlas, the value thereof comes out to Rs. 32.60 per square yard, which is quite close to the award of the Collector, where he had awarded compensation to the land owners @ Rs. 31/- per square yard. As some guess work is always applied in the process of determination of fair value of the acquired land, even after considering the evidence led by the land owners, I do not find any reason to interfere with the impugned award.

13. Accordingly, both the appeals are dismissed.