(1994) 08 P&H CK 0015

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1956 of 1989

Hardit Singh and Others — APPELLANT

Vs

Union of India (UOI) — RESPONDENT

Date of Decision : 31-08-1994

Acts Referred:
Land Acquisition Act, 1894 — Section 23

Citation : (1995) 109 PLR 228

Hon'ble Judges : N.C. Jain, J

Bench : Single Bench

Advocate : R. Joshi, A.S. Chahal and Thakur Kartar Singh, for the Appellant; Ashok Aggarwal, assisted by Subhash Goyal, Viney Mittal and Raman Walia, for the Respondent

Judgement

N.C. Jain, J.—This judgment will dispose of RFA Nos. 349, 367 to 369, 1956 to 1959, 2333, 2335 & 2344 of 1989, 768, 2541 and 2545 of 1990 filed by the landowners-claimants and R.F.A. Nos. 2296 to 2299, 2301 to 2306 of 1989, 2698 and 2699 of 1990 preferred by the Union of India and Union Territory, Chandigarh as they arise out of common award given by the District Judge, Chandigarh.

2. Land measuring 24 acres situated in the revenue estate of village Hallo Majra was acquired by the Union Territory of Chandigarh for setting up a centre for the Central Reserve Police Force by issuance of a notification u/s 4 of the Land Acquisition Act (hereinafter referred to as ''the Act'') on 20th November, 1985. The Land Acquisition collector by his award dated 20th March, 1986, determined the marked value of the acquired land at a flat rate of Rs. 80,000/- per acre. The District Judge, on reference u/s 18 of the Act at the instance of landowners, has categorised the land into two belts. The land up to a depth of 60 yards abutting the main Chandigarh-Ambala Road has been evaluated at the rate of Rs. 1,67,000/- per acre whereas the land beyond 60 yards ''depth has been given the valuation of Rs. 1,50,000/-per acre.

3. The landowners, aggrieved against the award of the District Judge, have filed appeals referred to above for enhancement in the amount of compensation whereas the Union of India and Union Territory, Chandigarh has filed cross-appeals for reducing the amount. The District Judge has prepared a chart of the sale deeds which is given below:-

S.No. No. of Village where Date of Area sold Sale Avg. per Exh. sold out land sale. out. Price acre Rs. is situated Rs. -X-X-X--X-X--X-X-X--X-X--X-X-X-X--X-X--X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-XX- 1. Ex.P-12 Burail 10.1.86 12 M 20,000/- 2,60,667/- 2. Ex.P-13 Hallo Majra 15.2.85 6 Biswa -do- 3,20,000/- 3. Ex.P-14 Jhumru 12.6.85 7K6M 1,50,000/- 1,64,527/- 4. Ex.P-15 Behlana 3.11.86 10 M 1,45,000/- 23,20,000/- 5. Ex.P-17 Hallo Majra 21.6.84 0-14 48,500/- 18,68,592/- Biswa 6. Ex.P-18 -do- 15.2.85 0-10 32,000/- 3,07,200/- Biswa 7. Ex.P-21 Burail 24.8.82 4K8M 3,74,000/- 6,81,760/- 8. Ex.P-22 -do- 2.6.82 2K 5M 1,62,000/- 5,79,000/- -X-X-X--X-X-X-X-X-X-X-X-X-X-X-X--X-X-X-X--X-X-X-X-X-X-X-X-X--X-X-X-XX

A perusal of the aforementioned chart makes it clear that the sale deeds pertaining to the sale of land in Hallo Majra are Exhs. P-13, P-17 and P-18. By virtue in other sale deeds, lands situated in villages Burail, Jhumru and Behlana were sold. The learned District Judge while evaluating the acquired land has primarily relied upon Exh.P-19, another award given by the predecessor Shri J.S. Sekhon (as he then was). It may be noted at this stage that vide Ex.P-19, this very land measuring 24 acres, situated in Hallo Majra, was evaluated at a flat rate of Rs. 1,67,000/- per acre. The learned District Judge, however, while creating two belts in the present case followed his own award in which he had created two belts, while dealing with this very acquisition on an earlier occasion.

4. The learned counsel for the claimants has, in the first instance, argued that the belting method should not have been resorted to by the District Judge, particularly when Sh. J.S. Sekhon, District Judge (as he then was) granted compensation at the rate of Rs. 1,67,000/- while dealing with the present notification. It has further been argued that his Court may take down the average of all the sale transactions, Exhs. P-12 to P-15, P-17, P-18, P-21 and P-22, as all the villages are adjoining each other. In the alternative, it has been argued that if this Court is not inclined to take into consideration the sale deeds pertaining to other villages, the sale deeds Exhs. P-13, P-17 and P-18 be considered for evaluating the acquired land.

5. After hearing learned counsel for the parties, I am of the view that the first argument of the learned counsel for the landowners-claimants has no force. Sh. J.S. Sekhon, District Judge (as he then was) did not categorise the land into two categories. Even otherwise, a compact block of 24 acres in village Hallo Majra, a part of Union Territory Chandigarh, located on main Chandigarh-Am-bala road has been acquired and there is no justification whatsoever for creating two belts. The District Judge, in the impugned award, has not given any reasoning as to why he did not follow the award given by Sh. J.S. Sekhon, the then District

Judge and he only observed that he was adopting his own award in which two belts were created. Consequently, there is no justification for categorising the land into two categories. Since the award of Shri J.S. Sekhon, has not attained finality and the matter is subjudice, the landowners are entitled to evaluation of their land independently on the basis of the sale deeds produced by them.

6. This brings me to the question as to what should be the market value of the acquired land. This Court is not at all inclined to take into consideration the sale transactions of other villages for evaluating the acquired land on the short ground that it is not easy to locate the land sold in those villages. No oral evidence has been led by the claimants to show as to what is the distance between Hallo Majra and other villages, viz., Burail, Jhumru and Behlana. The land in the aforesaid villages cannot be located. Even otherwise, once the sale deeds of village Hallo Majra are available, there is no justifiable reason to take into consideration the sales of the other villages. Adverting to the sale deeds Exhs. P-13, P-17 and P-18, this Court is of the view that the same are relevant and comparable with the acquired land. All the sales have taken place before the date of notification. Exhs. P-13 and P-18 were registered on 15.2.1985, while Exh. P-17 was registered on 21st June, 1984, whereas the notification u/s 4 of the Act was issued on 20.11.1985. Vide Exh. P-13, an area of 6 Biswas was sold for a consideration of Rs. 20,000/- bringing the sale price at Rs. 3,20,000/- per acre. Similarly vide Exh. P-17, an area measuring 14 Biswas was sold for a sum of Rs. 48,500/-, bringing the sale price at Rs. 3,18,288/- per acre. Vide Exh. P-18, an area measuring 10 Biswas was sold for Rs. 32,000/- and when converted into per acre, the sale price comes to Rs. 3,07,200/-. When all these three sale deeds are clubbed, the average sale price comes to Rs. 3,15,162/- per acre. In view of the fact that small pieces of land were sold, in all the sale deeds, it would be appropriate , to apply a cut of 40% and the valuation, thus, comes to Rs. 1,89,098/- per acre. In view of the fact that one of the sale deeds took place on 21st June, 1984, and two sale deeds were registered on 15th February, 1985, the landowners, in my considered view, are entitled to an increase of about Rs. 6,000/- per acre, for the time gap between the dates of three sale deeds and the date of notification u/s 4 of the Act. Consequently, the market value of the acquired land is hereby determined at Rs. 1,95,000/- per acre.

7. For the reasons recorded above, the appeals filed by the land-owners-claimants are allowed to the extent indicated above with proportionate costs. They will also have statutory benefits of the amended provisions of Section 23(1A), 23(2) and 28 of the Land Acquisition Act. In consequence of the acceptance of the landowner''s appeals, the appeals filed by the respondent Union of India and Union Territory, Chandigarh, are dismissed with no order as to costs.