(2007) 12 P&H CK 0058

In the Punjab And Haryana At Chandigarh

Hari Singh (Since Dead) through L.Rs. and Others — APPELLANT

Vs

The Land Acquisition Collector, (S.Y.L.) and Another — RESPONDENT

Date of Decision : 10-12-2007

Acts Referred:
Land Acquisition Act, 1894 — Section 4, 6

Citation : (2008) 2 PLR 511 : (2008) 2 RCR(Civil) 352

Hon'ble Judges : Vijender Jain, C.J;Mahesh Grover, J

Bench : Division Bench

Judgement

Vijender Jain, C.J.—This common judgment will dispose of the above mentioned three appeals under Clause X of the Letters Patent, which, although, have been preferred against different orders of the learned Single Judge, but the lands belonging to all the appellants situated within the revenue estate of village Thali, Tehsil and District Ropar, was acquired by the same notifications dated 26.11.1982/27.11.1982 and 7.12.1982 issued by the Government of Punjab under Sections 4 and 6 of the Land Acquisition Act, 1894, respectively, (hereinafter referred to as ''the Act'') for the construction of S.Y.L. Canal.

2. After following the procedure laid down under the Act, the Land Acquisition Collector, (S.Y.L.), Patiala (for short, ''the Collector''), by his award dated 22.3.1984, had determined the market value of the acquired land per acre at the following rates:

Chahi = Rs. 2,05,000/- Barani = Rs 1,16,000/- Gair Mumkin = Rs. 30,000/- 3. Dis-satisfied with the award of the Collector, the appellants and other land-owners sought references u/s 18 of the Act. The District Judge, Ropar, vide his common judgment dated 3.2.1986, decided the same and held that they were not entitled to any enhancement in the awarded compensation, which resulted in the filing of Regular First Appeals by the appellants.

4. The learned Single Judge, while deciding R.F.A. No. 743 of 1986 filed by Hari Singh and another vide his order dated 25.5.1989, maintained the compensation

awarded qua chahi land, but enhanced the compensation qua barani land to Rs. 1,53,750/- per acre.

5. Regular First Appeal Nos. 14 and 81 of 1989 filed by Kabal Singh & Anr. and Smt. Dhan Kaur and Ors., respectively, were disposed of by the learned Single Judge by different orders of January 7, 1993 in terms of his order dated 25.5.1989 passed in R.F.A. No. 743 of 1986. The appellants, feeling aggrieved by the orders of the learned Single Judge, have invoked the jurisdiction of this Court under Clause X of the Letters Patent.

6. Learned Counsel for the appellants contended that there was sufficient material on record to show that the value of the barani land was much higher than what has been determined and that even the learned Single Judge has accepted the potentiality of the land and concluded that barani land was fetching Rs. 4,00,000/- per acre, when he observed as follows in order dated 25.5.1989 passed in R.F.A. No. 743 of 1986:

...The price of barani land per acre came to Rs. 4,00,000/-, Rather the price fetched by way of sale deed dated 22.6.1982 Exhibit P3/A immediately before the Notification was Rs. 4,00,000/- per acre. Thus much high price of barani land seems to be there in view of the potentialities of the acquired land which has been so noticed even in the judgment under challenge. However, I need not go into the potentialities of the acquired land for the simple reason that this Court can place some reliance upon Exhibit P3/A if not more than Ex. P3/A. Since the sale pertains to too small an area and its location is also unascertained, I would keep in mind while finally relying upon valuation which has been put upon chahi land. In my view, it would be just, fair and equitable to apply a cut of 1/4th to the market value fixed by the Collector for chahi land i.e. Rs. 2,05,000/-. In my considered view, this Court need not apply a cut of more than 1/4th for the reason that the market value of barani land as represented by Exhibit P3/A is not less than the value of chahi land. This 1/4th cut, as has been observed above, is being applied for the reasons that by virtue of Exhibit P3/A land measuring 6 marlas located in village Thali was sold and the location was not known. For all these reasons,'' the market value of the acquired barani land after applying a cut of 1/4th is determined at Rs. 1,53,750/- per acre.

(Emphasis supplied)

7. Learned Counsel for the appellants argued that in view of the findings recorded by the learned Single Judge, the compensation for barani land ought to have been more.

On the other hand, learned Counsel appearing for the respondents contended that there was no material on record on the basis of which the price of the land could be determined and keeping in view the documentary evidence available before him, the learned Single Judge has adequately awarded the compensation which cannot be faulted with.

We have heard the learned Counsel for the parties.

8. It is to be mentioned here that the only argument advanced before us is qua the barani land and nothing has been said qua the chahi land.

9. Still, after perusal of the record, we find that there are only four instances of sale pertaining to the transactions which took place just prior to the acquisition. The same have been noticed by the learned Single Judge. These are Exhibits P1 to P4. Out of them, three relate to chahi land and the price varies from Rs. 2,59,200/- to Rs. 2,80,00D/-per acre. These instances pertain to very small pieces of land and, therefore, they cannot be relied upon in totality, but having regard to the fact that Rs. 2,05,000/- per acre was awarded for chahi land, which is somewhat close to the price indicated in the aforementioned instances and keeping m view the fact mat mere is always an element of exaggeration in the price so mentioned in the sale transactions pertaining to small pieces of land, we are of the opinion that the compensation awarded for chahi land is appropriate and does not warrant any interference.

10. We notice that the learned Single Judge has acknowledged the high potentiality of the acquired barani land and has, therefore, applied 1/4th cut in the price of the chahi land while determining compensation for the said land. We are in agreement with the learned Single Judge so far as the potentiality of the barani land is concerned.

11. There is a solitary sale instance in the shape of Exhibit P3 which depicts, the price of barani land at Ore fate of Rs. 4,00,000/- per acre. As per Exhibit P3, a small chunk of barani land measuring six marlas was sold on 22.6.1982 just prior to the acquisition.

12. It is a settled principle of law that the instances of sale pertaining to small pieces of land are never an indicator of the prevailing price of the land and are often a result of manipulations near the time of acquisition. They have, therefore, rightly to be discarded or at least never to be taken as the sole indicator of the prevailing price of the acquired land.

13. At the same time, the Court is also to see the material before it while assessing a reasonable compensation of the acquired land and if there is no credible evidence, men the only option left with it, is to determine the price by resorting to some guess work which, in any case, is involved in every assessment of compensation in the land acquisition cases.

14. In these cases, the land was acquired for construction of S.Y.L. Canal in the year 1982. As has been noticed above, the acquired barani land had the potentiality and, therefore, we feel that while determining the market value of such land, 1/4th cut in the price of the chahi land is excessive and instead, 1/5th cut seems more reasonable and realistic.

15. Accordingly, we assess the market value of the acquired barani land by applying 1/5th cut to the price of the chahi land, i.e., Rs. 2,05,000/- per acre,

which, when calculated, comes to Rs. 1,64,000/- per acre. Therefore, the appellants are held entitled to receive compensation at the rate of Rs. 1,64,000/- per acre for their acquired barani land. They shall also be entitled to receive all the statutory benefits as per amended provisions of the Act on the enhanced amount of compensation. With the aforementioned observations, the appeals are disposed of.

Sd/- Mahesh Grover, J.