

(1999) 01 P&H CK 0107

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 2218 of 1989

Harjit Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 28-01-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1999) 3 CivCC 140 : (1999) 123 PLR 31 : (1999) 3 RCR(Rent) 152

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Arun Jain, for the Appellant; P.D.S. Chhinna, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—On March 7, 1979, the State Government issued a notification u/s 4 of the Land Acquisition Act, 1894. Land measuring 16 acres, 6 kanals and 11 marlas in the revenue estate of Hazipur was acquired. By the same notification, land measuring 62 acres, 1 kanal and 6 marlas situate within the municipal limits of Phagwara township was also acquired. On October 22, 1979, the notification u/s 6 was issued. Land measuring 4 kanals and 5 marla 6 belonging to the appellants was acquired by the State Government. This land was situate on the Phagwara-Hoshiarpur road and was within the municipal limits of the township. The Collector assessed the compensation at Rs. 32,000/- per acre viz. Rs. 200/- per marla. He announced the award on October 1, 1982. The landowners claimed references u/s 18 of the Act. The Additional District Judge passed two orders. By her award dated December 1, 1984, she assessed the market value of the land at Rs. 600/- per marla. She passed another award on December 4, 1984. By this award, compensation for the land belonging to the present appellants was fixed. It was held that the market value of the land was Rs. 800/- per marla. The landowners covered by both the awards filed separate appeals. In case of award dated December 1, 1984, RFA No. 521 of 1985 was

decided by a learned Single Judge vide judgment dated August 31, 1988. The market value of the land was raised from Rs. 600/- per marla to Rs. 1,000/- per marla. The appeal filed by the present appellants viz. RFA No. 397 of 1985 was placed before another Hon"ble Judge, The market value as fixed by the Additional District Judge was maintained. Thus, the result is that the land for which the market value was fixed at Rs. 600/- per marla by the Additional District Judge, this court held that the correct compensation would be @ Rs. 1,000/- per marla. However, where the market value was fixed at Rs. 800/- per marla, it has remained unchanged. Aggrieved by the judgment of the learned Single Judge, the claimants in RFA No. 397 of 1985 have filed the present Letters Patent Appeal.

2. Mr. Arun Jain, learned counsel has contended that higher compensation had been awarded to the appellants by the Additional District Judge because their land was located on the main road from Phagwara to Hoshiarpur. As against this, the compensation in case of the appellants in RFA No. 521 of 1985 was fixed at Rs. 600/- per marla as the land was located away from the main road. He submits that being on the main road and the land having been acquired for commercial purpose viz. establishing a Grain Market, the market value of the land of the appellants should have been assessed at more than Rs. 1,000/- per marla. The disparity in the quality of land as determined by the Additional District Judge should have been reflected even in the awards given by this Court. The claim made on behalf of the appellants has been controverted by Mr. P.D.S. Chhinna, learned counsel appearing on behalf of the respondents.

3. Admittedly, the land of the appellants is located on the main road. It is also not disputed that the land which was the subject matter of RFA. No. 521 of 1985 decided on August 31, 1988, was not located on the main road going from Phagwara to Hoshiarpur. It is on account of this fact that the market value of the land belonging to the appellants had been fixed @ Rs. 800/ per marla while that of the other land, had been assessed at Rs. 600/- per marla by the Additional District Judge. Still further, it is not disputed that it is on the basis of the sale deeds viz. Exhibits A. 1 and A. 2 that the learned Single Judge decided RFA No. 521 of 1985 and fixed the market value at Rs. 1000/- per marla. A perusal of these sale deeds shows that on April 4, 1975, two pieces of land measuring 10 marlas each had been sold for Rs. 10,000/- each. It further appears that the land which was the subject matter of these two sale deeds, was from the same Khasra number in which the land of the present appellant is located. It is no doubt true that the land which was the subject matter of these two sale deeds, was only 10 marlas each. The fact, however, remains that a period of almost four years had elapsed and it was only on March 7, 1979 that the notification u/s 4 had been issued. By that time, the market value of the land should have risen to some extent. In this situation, it appears to be just and fair to treat the present appellants at par with those in RFA No. 521 of 1985. Even if they are not given any additional benefit, they should not be awarded compensation less than that awarded to the persons whose land was found to be located away from the main

road.

4. Thus, the appeal is allowed to the extent that the market value of the land is fixed at Rs. 1,000/- per marla instead of Rs. 800/- per marla as fixed by the learned Single Judge. The other benefits shall follow. In the circumstances, there will be no order as to costs.