
(2004) 02 P&H CK 0063

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2560 of 1987

Hazura Singh and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 25-02-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2004) 137 PLR 642

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Advocate : M.L. Sarin and Harsh Rekha, for the Appellant; K.K Gupta, for the Respondent

Final Decision : Allowed

Judgement

Hemant Gupta, J.—This judgment shall dispose of Regular First Appeal Nos. 2332, 2333, 2560 and 2561 of 1987 as all these appeals arise out of the same proceedings involving identical question of law and facts. Facts are being taken from Regular First Appeal No. 2560 of 1987.

2. Land measuring 1.48 acres situated in village Kajheri was acquired by the Chandigarh Administration for setting up 66 K.V. Sub Station and development of Sector 52-B, Chandigarh, vide notification dated 28.2.1984 u/s 4 of the Land Acquisition Act, 1894 (for short "the Act"). The Land Acquisition Collector announced compensation of Rs. 60,000/- per acre in respect of the land on 22.3.1985 but assessed compensation of Rs. 30,003/- in respect of the house owned by the claimant in R.F.A. No. 2560 of 1987. The Land Acquisition Collector also awarded Rs. 6567/- towards compensation of tube-well and Rs. 183.48 towards trees to claimant Hazura Singh. However, in respect of claimants in RFA No. 2561 of 1987, the Land Acquisition Collector had awarded Rs. 1512/- for the structures.

3. Dissatisfied with the amount of compensation, the claimants sought reference

u/s 18 of the Act. Learned District Judge, on reference, assessed the amount of compensation of land at Rs. 1,20,000/- per acre. Reliance was placed upon an earlier decision by the District Judge, Exhibit P-3, in respect of land acquired in the same Village for the same purpose vide notification dated. 31.10.1983 wherein the compensation of the acquired land was assessed at Rs. 1,20,000/- per acre. However, the learned District Judge enhanced the compensation in respect of the fruit trees acquired to Rs. 550.44 while maintaining the compensation in respect of the house and tube-well etc.

4. Dissatisfied with the amount of compensation awarded by the learned District Judge, State as well as land owners have filed separate appeals.

5. Learned counsel for the claimants has vehemently argued that the claimants are entitled to enhanced amount of compensation of the land acquired in view of the increase in prices. Learned District Judge has relied upon the award rendered by the said Court in earlier acquisition proceedings wherein notification u/s 4 of the Act was issued on 31.10.1983 whereas the notification in respect of the land acquired in the present case is dated 28.2.1984. Therefore, in the period of four months the prices have increased and, thus, the claimants are entitled to enhanced amount of compensation than what is awarded to the land owners in judgment Exhibit P-3.

6. In addition to the said argument, learned counsel for the claimant has argued that the valuation report in respect of the house acquired assessed the value of the house at Rs. 80,900/- but the learned District Judge gravely erred in law in not relying upon the said report. It is contended that even if the valuation given by the valuer is on 10.5.1986 but on the basis of the parameters disclosed by the valuer produced by the Chandigarh Administration, the claimant-appellant is entitled to enhanced amount of compensation.

7. I do not find any merit in the first contention raised by the learned counsel for the claimant-appellant. The land was acquired in the same village within a gap of four months. Four months period is a too short period to assume increase in prices. There is no evidence that within the period of four months there was any increase in the prices which could be taken into consideration by the reference Court. The acquisition which was subject matter of judgment Exhibit P-3 and that in the present case is of the same village and for the same purpose.

8. Consequently, I do not find any reason to enhance the amount of compensation that what was awarded by the learned District Judge in award Exhibit P-3. It may be mentioned that award Exhibit P-3 has been confirmed in appeal in RFA No. 2406 of 1987 decided on 18.7.1988 by this Court.

9. However, in respect of the second contention of the claimant, I do find that the amount of compensation on account of acquisition of the house is inadequate. A perusal of the statement of PW4 H.K.L. Talwar shows that the valuation report prepared by the witness was disputed only on the question of premium allowable. The valuer has assessed the cost of the construction on the

basis of Common Schedule Rates for the year 1962 and, therefore, allowed premium admissible as on 10.5.86. This witness could not disclose as to what premium was admissible on 28.2.1984 i.e. the date of notification. However, the entire cross-examination of the witness does not show that there was any dispute in respect of any of items given by this Valuer in his report.

10. On the other hand, Chandigarh Administration has produced Parladh Singh Randhawa, Surveyor, as RW1. He also prepared the valuation report on the basis of Common Schedule of Rates for the year 1963 and allowed premium permissible in February, 1984. However, cross-examination of the said witness also does not show any of the basis of validation is incorrect.

11. Keeping in view the tendency of the experts to depose in favour of the parties who engage them and the fact that the Valuer produced by the appellant has calculated the premium as on 10.5.1986 as against the premium required on 28.2.1984, the valuation report given by PW4 Sh. H.K.L. Talwar cannot be accepted at its face value. However, the basic value assessed by PW4 H.K.L. Talwar in report Exhibit P-2 is Rs. 45,500/-The expert has computed the amount of compensation in the following manner:-

"1 to 21 x x x x x Total Rs. 45,500/- Add 650% av. premium on all CSR items i.e. on Rs. 6024/- 39,156/- Total: Rs 84,656/- Add 5% contingencies and petty Estab. Charges Rs. 4,233/- Total: Rs. 88,889/- Less 9% depreciation for 3 years Rs. 8,000/-

Total: Rs. 80,889/- Say: Rs. 80,900/-

12. On other hand, Shri P.S. Randhawa (RW1) has computed the amount of compensation in the following manner:-

"1 to 21

X X X X X X X

Total: Rs. 5575/-

Add 550% premium on item No.1

Rs. 72/-.

Rs. 13/-

Add 680% premium on item No.2, 3, 4 and 70

Rs. 1393/-

Rs. 9472/-

Add 425% premium on item No.5, 6, 8, 9, 12, 13, 14,

15, 16, 17, 18 Rs. 2824/-

Rs.11960/-

Add 560% premium on item No. 10 and 11

Rs. 915/-

Rs. 5124/-

Rs.32203/-

Deduct 5% sub standard on scheduled amount Rs. 31763/-

(-) Rs. 1588/-

Rs.30615/-

Deduct depreciation @ 1% per year for two years 2%

(-) Rs. 612/-

Net Total:

Rs.30003/-

13. A perusal of the above two reports show that there is no dispute that on the basic value, premium is to be added and then depreciation deducted. However, there is wide difference in the valuation report submitted by the parties.

14. In view of the method adopted by this Court in the case of Union of India v. Pal Singh and Anr. (1994) 117 PLR 569 it is fair and reasonable to allow compensation of Rs. 50,000/- for the house acquired. The said sum has been arrived at on the basis of average of the valuation report submitted by the experts of the parties and after allowing depreciation.

15. Consequently, Regular First Appeal No. 2560 of 1987 is allowed partly wherein the amount of compensation is enhanced in respect of the house from Rs. 30,003/- to Rs. 50,000/-. The appellants in Regular First Appeal No. 2560 of 1987 shall be entitled to enhanced benefits as contemplated u/s 23(1A) 23(2) and 28 of the Land Acquisition Act, 1894, as amended on the amount of compensation as the award of the Land Acquisition Collector is 22.3.1985 i.e. after the amendment of the Act. The appellants shall be entitled to proportionate costs as well.

16. Regular First Appeal Nos. 2332, 2333 and 2561 of 1987 are dismissed with no order as to costs.