

(1983) 04 P&H CK 0012
In the Punjab And Haryana At Chandigarh
Case No : First Appeal Order No. 194 of 1977

Hoshnak Singh	Vs	APPELLANT
The Union of India and others		RESPONDENT

Date of Decision : 06-04-1983

Acts Referred:

Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 7(1)

Citation : (1983) 04 P&H CK 0012

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Advocate : H.L. Sarin, with Mr. M.L. Sarin, for the Appellant; H.S. Brar, for the Respondent

Final Decision : Dismissed

Judgement

I.S. Tiwana, J.—This judgment disposes of two bunches of appeals-F.A. Os. Nos. 194, 196 to 199, 256, 258 to 268 of 1977 and Cross-objection No. 31-C-II of 1982 in F.A.O. No. 268, relating to the acquisition of land in village Daulatpur and F.A.Os. Nos. 238 to 241 of 1978 and Cross-Objection Nos. 41-C-II and 42-C-II of 1982 in F.A.Os. 240 and 241 respectively, relating to the acquisition of land in village Chhotapur in pursuance of two notifications published u/s 7 (1) of the Requisitioning and Acquisition of Immovable Property Act, 1952 (Act No 30 of 1952), (hereinafter referred to as the Act), on June 25, 1965 and May 25, 1964 respectively. It is the agreed position that the facts and the contentions raised in these cases are almost identical.

2. The extent of areas acquired in these two villages for the same purpose, i.e. for Military purposes, is 236 kanals and 7 marlas in village Daulatpur and 108 acres in village Chhotapur. The Land Acquisition Collector allowed farcically low amount of compensation for these acquisitions. Since the landowner-claimants did not agree to accept that compensation as adequate and fair, it necessitated the appointment of an arbitrator by the Central Government in terms of section 8 (1)(b) of the Act. It deserves to be mentioned here that prior to these

acquisitions, the entire land along with some more land in other villages was requisitioned for the army authorities somewhere in the year 1947-48. Since for a pretty long time, the Central Government failed to perform its statutory duty of appointing an arbitrator for determining the just compensation payable to the landowners, they had to run to this Court for seeking a writ of mandamus against it for the appointment of an arbitrator and the grant of solatium and interest on the amount of compensation payable to them. One of these judgments is reported as *Shankar Singh v. Union of India* 1975 R.L.R. 6, wherein both these reliefs were granted to them. It was in pursuance of this direction of this Court that the two arbitrators were appointed to determine the compensation payable for these two acquisitions.

3. So far as the awards pertaining to the acquisition of land in village Daulatpur are concerned, I would have straightaway set aside the same and remanded the cases for the short reason that the impugned awards are wholly sketchy, and if I may say so, arbitrary. Besides making a reference to his appointment as an arbitrator (Mr. M.S. Ahluwalia, Senior Sub Judge, Gurdaspur) and that he was supposed to determine the compensation payable for the acquired land, he has discussed or made reference to nothing except to fix the rate of compensation payable for different types of land. He has virtually treated himself as an arbitrator under the Indian Arbitration Act and appears to have acted under the belief that he was not supposed to give any reason in support of his findings. This approach to me appears to be wholly erroneous in view of the clear provisions of the Act and the Rules framed thereunder. It is under clause (e) of section 8 (1) of the Act that an arbitrator is required to determine the amount of compensation "which appears to him to be just" and for doing so he has to "have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable. "As a matter of fact the applicability of the Indian Arbitration Act, 1940, to the proceedings under the Act has specifically been excluded by clause (g) of sub section (1) of Section 8 of the Act. Besides this, section 12 of the Act confers on the arbitrator all the powers of the Civil Court in matters of summoning and enforcing the attendance of persons for being examined on oath, requiring the discovery and production of documents, reception of evidence on affidavits, requisitioning of any public record from any Court or office and issuing commissions for examining of witnesses. Thus, it is manifest from these provisions that the arbitrator virtually has the trappings of a civil Court. Not only this, an appeal against the award of the arbitrator is again provided for in section 11 of the Act. This by itself, is suggestive of the fact that the arbitrator is supposed to record the reasons in support of his conclusion after discussing the evidence relevant thereto so that the appellate Court may know the approach and the process of reasoning adopted by him in recording a particular finding or conclusion. Further, Rule 10 of the Rules framed under the Act practically lays down the whole procedure that has to be adopted by the arbitrator in matters of recording evidence before him. In the light of these provisions, it can safely be assumed that the arbitrator under the Act is supposed

to write virtually a judgment like a Civil Court. His award under the Act is more or less analogous to the award of the Arbitrator under the Co-operative Societies Act. This Court while considering the question as to in what form the award of an arbitrator under the co-operative Societies Act should be and pointing out the difference between an award under the Arbitration Act and the one under the Co-operative Societies Act, held in *Preet Singh and Sada Ram v. The Central Co-operative Bank Ltd. Rohtak* (1977) 79 P.L.R. 100, thus :--

It is, therefore, necessary for an Arbitrator while deciding the dispute referred to him under the Punjab Co-operative Societies Act, to set out the items of the dispute and the decision thereon together with the reasons for those decisions.

What weighed with the Court for recording this conclusion is that an appeal against the award of the arbitrator under the Co-operative Societies Act is provided for and the award by itself is executable as a decree. So is precisely the case with regard to the award given by the arbitrator under the Act. As already indicated, I would have set aside the impugned awards in cases relating to the acquisition of land in village Daulatpur for the above noted reasons but in order to obviate the ordeal that the claimants have already undergone on account of this long drawn litigation for the last about 20 years, I have thought it proper to dispose of these appeals on merits, here.

4. So far as the potentiality of the land acquired in village Daulatpur is concerned, the same is not in dispute. It is even admitted by R.W. 1 Hans Raj Patwari from the office of Military Land Acquisition Collector, Pathankot, that "opposite the acquired land is abadi. These abadies are within Pathankot Road. It is 1 1/2 furlongs from General Bus Stand. Kiran Cinema and Convent School are in acquired land." Besides the other evidence on record, the site plan Exhibit A. 1 produced and proved by the claimants and the correctness of which is not in dispute, not only supports the above noted statement of R.W. 1, but further reveals that the acquired land is practically surrounded by the habitation of the town. It is located virtually in the cross-section of Amritsar Pathankot and Pathankot-Sujanpur roads. At the back of the acquired land is the Abrol Nagar Abadi which again is linked by a metalled road with the Amritsar-Pathankot road. It is, therefore, more than clear that the suit land had acquired a great potential for being used as a residential or even a commercial area.

5. The landowner claimants were obviously under a handicap to produce any sale instance in support of their claim for compensation at the rate of Rs. 500/- per marla on account of the fact, as already indicated, that the suit land was under occupation of the military authorities right from the year 1947-48, having been requisitioned for their purposes. As already pointed out, as a matter of fact, much more area than the suit land surrounding it was requisitioned by the military authorities and therefore no sale transactions could possibly take place in the vicinity of this area. The learned counsel for the claimants, however, rely on a judgment of this Court in R. F. A. No. 193 of 1971 (*Hoshnak Singh v. State of Punjab and others*) decided on February 27, 1980, dealing with the market

value of the land acquired in pursuance of a notification published u/s 4 of the Land Acquisition Act on July 6, 1982, whereby the rate of compensation was determined at Rs. 200/- per marla of Rs. 32003/- per acre. The acquired area in that case was located in Pathankot Jullundur road but just outside the municipal limits of the town. In the light of this judgment, the learned counsel for the claimants vehemently contended that treating the finding recorded in this judgment as the base, the appellants in these cases are entitled to be awarded compensation at a much higher rate than Rs. 200/- per marla on account of the interregnum of about three years between the two notifications of acquisition. The submission of the learned counsel apparently is not devoid of merit. As already pointed out, there is also no evidence on record on behalf of the respondent authorities which can possibly detract anything from this claim of the learned counsel for the appellants. Thus treating the rate determined vide judgment in R.F.A. 193 (supra) as the base, I raise the compensation for the suit land in village Daulatpur by 25% i.e. to Rs. 250/-per marla.

6. So far as the acquired land in village Chhotapur is concerned, it, is already pointed out, is located on Pathankot-Sujanpur road though at some distance from the acquired land in village Daulatpur. As per the statement of RW1, some area of village Anandpur intervenes the area of these two village, that is, Daulatpur and Chhotapur. Thus obviously the area of village Chhotapur cannot be treated at par with the area of village Daulatpur. On account of this fact and in the absence of any evidence of any comprable sales produced by either of the parties, I relying on the conclusion recorded in R.F.A. No. 193 (supra), reduce the rate of compensation by 25% so far as the acquired land of village Chhotapur is concerned. I thus determine the market price of the acquired land in village Chhotapur at Rs. 150/- per marla.

7. Besides the above noted rate of compensation payable to the claimant-appellants and cross-objectors they are also held entitled to the payment of solatium and interest at the rate of 15% and 6% per annum respectively in terms of the judgment in Shankar Singh's case (supra) which undisputably is inter parties and has attained finality. All this, however, is subject to the claim made by them in their memorandums of appeals and cross-objections and the Court fee paid thereon. They too would have proportionate costs of these appeals and cross-objections.

8. As a natural consequence of the above noted conclusion of mine the appeals filed by the Union of India fail and are dismissed but withno order as to costs.