
(1987) 04 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 935 of 1985

Inder Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 27-04-1987

Acts Referred:

Citation : (1987) PLJ 650 : (1987) RRR 39

Hon'ble Judges : D.V.Sehgal, J

Advocate : Mr. V.K. Jain, Advocate., Advocates for appearing Parties

Judgement

D.V. Sehgal, J.

1. This appeal by the land owner is directed against the award dated 3.6.1985 made by the learned Additional District Judge, Gurgaon, whereby he disposed of the connected reference application under Section 18 of the Land Acquisition Act, 1894 (for short ` the Act). The grievance of the appellant is two fold i. e. that the market value of the land acquired as awarded is inadequate and that he has been wrongly denied compensation for severance of his land because of acquisition and in respect of the Kikar and other trees standing on the land acquired. Both these matters are covered by issue Nos. 1 and 2 decided by the learned Additional District Judge.

2. The land was acquired in pursuance of a notification dated 23.11.1979 under Section 4 of the Act published in the Haryana Government Gazette, for defence purpose in respect of 54 ASP and 56 ASP at public expense. The learned Additional District Judge has fixed the market value of the land acquired at Rs. 26/ per sqr yard. In R.F.A. No. 933 of 1985 (Dhani Ram v. Haryana State & others) alongwith connected appeals decided by me on 8.4.1987. I have fixed the market values of the land acquired, in pursuance of the aforesaid notification, of which the land of the appellant is a part, at the rate of Rs. 30/ per sqr. yard. So far as the compensation of the land acquired is concerned the appeal is, partly allowed. The appellant shall be entitled to payment of compensation for the land acquired at the rate of Rs. 30/ per sqr. yard besides proportionate costs

of this appeal. He shall also be entitled to solatium at the rate of 30 per cent and additional amount at the rate of 12 per cent per annum on the amount of the market value from the date of the notification under Section 4 of the Act till the date of his dispossession from the land. He shall also be entitled to interest at the rate of 9 per cent per annum for a period of one year from the date of the award of the Collector and at the rate of 15 per cent per annum for the period subsequent thereto till the final payment of the amount of compensation.

3. Now coming to issue No 2, after hearing the learned counsel for the Parties, I find that there is no substance in the claim for compensation made by the appellant in respect of severance of the land. There has been no bifurcation of the holding of the appellant as a result of the acquisition. His plea that he cannot raise construction on his adjoining or land acquired because of some defence regulations is also without merit for the reason that he has led no evidence as to what type of construction he intended to raise on the land and for what purpose. Admittedly, there is no impediment in the tilling of the land for agricultural purposes. I, therefore, agree with the finding of the learned Additional District Judge that the appellant is not entitled to any compensation on account of severance.

4. However, the claim of the appellant for compensation of Kikar and other trees standing on the land deserves to be allowed. Inder Singh claimant/appellant appearing as P.W.I. has stated that there were about 1000 Kikar and other trees on his land which were also acquired. Shri K. Chandra Flying officer, Air Force, Gurgaon, who appeared as PW2 stated that the Kikar and other firewood trees were on the land but these were as a result of natural and wild growth. The learned Additional District Judge has held that since the land that has been acquired was on lease with the Air Force authorities for the last 40 years and the Kikar and other fuelwood trees standing thereon were not because of any plantation done by the appellant but as a result of wild growth, he is not entitled to the compensation for the same. I do not agree with this view.

5. It is a well known maxim that whatever is affixed to the soil become in contemplation of law a part of it and is subjected to the same rights of property as the soil itself. It follows as a corollary that if a person plants a tree in the land of another the owner of the soil becomes owner of the tree also. A standing tree belongs not to the person by whom it was planted but to the owner of the land from which it draws its support and sustenance. I rely for this view on a Division Bench judgment of this Court in *Hakim Hari Ram and others v. Santa Ram and others*, A.I.R. 1955 Punjab 63. Therefore, the growth of the trees on the land irrespective of the fact that it is a contribution of the nature alone or those were planted by the appellant, he is entitled to compensation for the same when his land on which the trees stand has been acquired.

6. In the circumstances, therefore, I direct the learned Additional District Judge to assess the market value of the trees standing on the land acquired on the date of the notification under Section 4 of the Act, after receiving evidence of the

parties and submit a report to this Court within six months. The records should be sent to the learned Additional District Judge for the purpose.

7. The appeal should be listed for hearing as soon as the report is received. The parties, through their counsel, are directed to appear before the learned Additional District Judge, on 11.5.1987.