
(2013) 07 P&H CK 0505

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2081 of 1995

Jagan Nath alias Jagan Parshad

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : (2013) 07 P&H CK 0505

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Mani Ram Verma, for the Appellant; Ashish Gupta, AAG, Haryana, for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—The appeal is at the instance of the land owner seeking for enhancement of compensation for a property acquired under the Land Acquisition Act. The details of acquisition are tabulated as under:-

Sale Instances:-

The land owner is aggrieved by the fact that the property had been actually taken possession of by the State for laying the road much prior to Section 4 notification and interest had not been provided for the period when the land owners could not have the benefit of use of his land. His further contention is that there was a residential house and some crops at the time when the property was taken possession of by the State and compensation has not been assessed for the same. Even as regards the value of the property as determined, the land owner has a grievance that the sale instances relied on by him had not been properly considered.

2. As regards the contention that the land owner has not been paid interest for a period prior to Section 4 notification, the same is covered by a decision of the Supreme Court in Special Land Acquisition Officer Vs. Karigowda and Others, The

remedy of land owner would be only to secure an assessment of damages for the property when the State had taken possession of even prior to Section 4 notification. There could be no claim of interest other than in the manner provided under the Land Acquisition Act itself and consequently, the land owner will have the benefit of an assessment of damages for the period when the property was taken possession of prior to Section 4 notification and to that extent the case would fall for consideration by a referral back to the Collector for assessment. When such an assessment is undertaken, the Collector shall issue notice to the petitioner and permit him to adduce appropriate evidence about the nature of accustomed user of property and the likely loss that had been occasioned to him by the premature taking over of possession of the property even before Section 4 notification issued under the Land Acquisition Act.

3. As regards the contention that there had been building and crops at the property which was acquired, the Collector's award itself makes no reference to the existence of any building or crops. There has been, however, a pointed objection made by the land owner u/s 18 and also in the evidence given by him before the Court. His evidence before the Reference Court was as under:-

...one residential house was there and the same was also demolished. Both sides of the land the pits were dug by the respondents. I and other petitioners sent letter to the respondents for doing the needful and to pay the compensation but nothing was done...

Apart from stating that there was building, the land owner has given in evidence the value of the construction for an appropriate assessment by the Court. On the side of the respondents, SDO, PWD (B & R) Ch. Dadri has given evidence as RW-1 that at the time of acquisition there were no standing trees or construction of kotha. In the cross-examination, it was elicited that in Khasra No. 192 in an extent of 18 marlas, there had been a house but he was not in position to say whether that house was adjoining the land or not. He asserted in the cross-examination that the State has not demolished any constructed portion at the time of acquisition. With the quality of evidence that had been adduced, it is not possible for me to make any assessment for the value of the building. I will, therefore, discard the objection raised by the land owner that appropriate compensation has not been awarded for value of the building.

4. As regards the assessment of value of the land, the Reference Court has merely rejected the reference on the ground that the State has appropriately awarded the compensation and there was no need for enhancement of the same. No particular reason has been given as to why Ex. P7 has not been relied on although the evidence was that it was in proximity to the property acquired. Ex. P7 was the sale deed dated 13.09.1990 which had been sold for a consideration of Rs. 20,000/- for 100 sq. yard of land. Considering the fact that the property which was acquired was for construction of a road and the nature of user itself was for non-agricultural purpose, I would only think it appropriate to take the evidence given under Ex. P7 as relevant and making a provision for enhancement

at the rate of 10% for a year from the date of the sale to the date of notification, the value ought to Rs. 208.33 per square yard. Considering the fact that the property dealt with under Ex. P7 was a small extent of 100 sq. yard while the property was acquired in an extent of over 5 acres, I will make a cut of 33% for the relative smallness of the land dealt with as exemplar and take the value at Rs. 139.59 which I will round off to Rs. 140/- per square yard. The same shall be the increase of land value for the land owner. The compensation shall be assessed with all the statutory benefits.

5. As regards the damages for user of the property by the State even prior to Section 4 notification, the same shall be remitted for a fresh consideration by the land Acquisition Collector. The enquiry shall be undertaken by him after notice to the land owner and an appropriate decision shall be taken within a period of six months from the date of receipt of copy of this order. The enquiry will not deter the land owner for enforcing the award as regards the enhanced value of land as determined through this order. The award is modified and the appeal is allowed to the above extent.