
(2006) 04 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 663 of 1982

Jagir Singh and Others

APPELLANT

Vs

Haryana State

RESPONDENT

Date of Decision : 05-04-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2006) 144 PLR 491 : (2006) 3 RCR(Civil) 798

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : Hemant Bassi, for the Appellant; Manohar Lal, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—Both Regular First Appeal Nos. 663 and 664 of 1982 arise out of the common order dated 9.2.1982 passed by the Court of Additional District Judge, Ambala. R.F.A. No. 663 of 1982 has been filed by the appellants while the other appeal No. 664 of 1982 has been filed by the State of Haryana. For facility of reference, facts are taken from R.F.A. No. 663 of 1982. The claimants will be referred to as appellant.

2. The facts are that land measuring 1.03 acres situated in village Bishangarh was acquired by the State of Haryana vide notification dated 2.8.1976 for constructing Bundh in reach RD 305-1322 for the protection of village Bishangarh and Segti, Tehsil and District Ambala. Declaration u/s 6 of the Land Acquisition Act was also issued on 16.11.1976. Out of acquired land, 9 Kanals 13 Marias of Barani land belonged to the appellants. The Land Acquisition Collector vide award dated 29.4.1977 awarded compensation at the rate of Rs. 5,000/- per acre and accordingly compensation amounting to Rs. 6,935.94 was paid to the appellants.

3. The appellants felt dis-satisfied and they filed reference in the Court of learned District Judge. It was entrusted for decision to the Court of Shri R.C. Jain, Additional District Judge, Ambala. The appellants claimed compensation @ Rs.

50,000/- per acre.

4. The said claim was resisted by the respondent/State by filing written reply. It was pleaded that the land in question was low lying. It was flood affected and sandy and yielded hardly one crop in a year. It was neither valuable nor it carried any potential value as it was far away from the Pucca road. Hence, dismissal of reference was prayed.

5. On these pleadings, the following issues were framed by the learned trial Court:

1. What was the market value of the acquired land at the time of the notification u/s 4 of the Land Acquisition Act, 1894? OPP.

2. Relief.

6. In support of their case, the appellants placed on the file a copy of award dated 30.8.1980 as Exhibit P-1. As per this award, the value of the land was assessed at the rate of Rs. 8,000/- per acre. The appellants also proved copy of another award dated 8.6.1981 as Exhibit P-2 vide which compensation was awarded at the rate of Rs. 11,000/- per acre for Chahi land and Rs. 9,000/- per acre for Barani land. The appellants also proved copy of award dated 5.2.1982, Exhibit P-3 vide which rate of Barani land was assessed at Rs. 9,000/- while Chahi land was assessed at Rs.13,000/- per acre. Ajmer Singh appellant also appeared as PW-1 and supported his case. The appellants closed their evidence.

7. On the other hand, respondents examined Shri Dharamvir Singh, Patwari as RW-1. He has proved the map of the site in dispute as Exhibit R-1 and also proved a copy of award dated 12.8.1981 as Exhibit R-2. The respondents also closed their evidence.

8. On the basis of this evidence, the learned Reference Court placed reliance on Exhibit P-1 which was a copy of award vide which the rate of land acquired was assessed at Rs. 8,000/- per acre. The plea taken was that this award dated 30.8.1980, copy of which is Exhibit P-1, also relate to the same village and notification of acquisition also related to the same year which was issued on 10.9.1976.

9. Copy of award 8.6.1981 (Exhibit P-2) was discarded and not relied upon for the reason that the land acquired in that case did not belong to village Bishangarh. It related to the land of village Naggal, Tehsil and District Ambala. Exhibit P-3 was also discarded by the learned Reference Court on the plea that land was acquired in this case vide notification dated 17.1.1979 i.e. after about 3 years although the land belonged to village Bishangarh.

10. Similarly, copy of award dated 29.8.1980, Exhibit R-2 was not relied upon as this land also belonged to a different village.

11. Basing its decision on the judgment dated 30.8.1980 (Exhibit P-1), the learned Reference Court enhanced compensation from Rs. 5,000/- to Rs. 8,000/-

per acre vide award dated 9.2.1982.

12. Appeal No. 663 of 1982 was filed by the appellants for seeking enhancement of compensation while appeal No. 664 of 1982 was filed by the State of Haryana seeking reduction in the rate of compensation awarded by the Reference Court.

13. The submissions of the learned Counsel for the appellants was that the appellants had produced on the file a copy of award dated 5.2.1982, Exhibit A-3 vide which compensation was awarded by the learned Reference Court at the rate of Rs. 9,000/- per acre for Barani land and at the rate of Rs. 13,000/- per acre for Chahi land. It was further submitted that the acquired land also related to village Bishangarh. They had filed Regular Second Appeal No. 665 of 1982 and the said appeal was disposed of by this Court vide order dated 21.1.2004. This Court had adopted the decision rendered by this Court in R.F.A. No. 1475 of 1982 decided on 5.9.1988 and the rate was enhanced to Rs. 30,000/-per acre. Hence, it was prayed that compensation be enhanced in this case also at the rate of Rs. 30,000/- per acre.

14. It was further submitted that even if some reduction is to be made because acquisition was made in the years 1979 in the reported judgment, even then rate of compensation cannot be less than Rs. 20,000/- per acre.

15. On the other hand, the submission of respondent was that the rate of compensation awarded by the learned Lower Court was much higher than the market value. The learned Reference Court committed an error in not following the judgment dated 12.8.1981 (Exhibit R-2) vide which the rate of Barani land was assessed at Rs. 7,000/-per acre.

16. I have perused the facts of this case and considered submissions advanced before me by the learned Counsel for the parties. The learned Reference Court had rightly rejected the copy of award dated 8.6.1981, Exhibit P-2 as it related to a different village. Therefore, it could not have been compared with the land acquired in village Bishangarh. Similarly, the judgment relied upon by the respondent/State i.e. judgment dated 12.8.1981 copy of which is proved as Exhibit R-2 was also rightly rejected.

17. So far as the judgment dated 5.2.1982 copy of which is Exhibit P-3 is concerned, that was also not applicable to the facts of this case for the simple reason that notification in this case was issued about three years after the land was acquired in the present case. The notification for acquisition was issued on 17.1.1979 in the judgment dated 5.2.1982 (Exhibit P-3) while the land was acquired in the present case on 2.8.1976 i.e., notification u/s 4 of the Act and on 16.11.1976 notification u/s 6 of the Act was issued. The rates vary from time to time. Since the judgment dated 5.2.1982 (Exhibit P-3) was for a subsequent period, therefore, obviously the market value of the land was assessed at higher rate.

18. Moreover, in the present case, it was specifically deposed by Dharamvir

Singh, Patwari RW-1 that the land acquired was sandy. It yielded only one crop in a year. It was subject to floods and generally the crops were destroyed by floods. The acquired land was also uneven. Therefore, there were distinguishing features of this land for which the rate was assessed properly by the learned Reference Court.

19. The judgments referred to by the learned Counsel for the appellants are not applicable to the facts of this case. The rate was enhanced by this Court vide award dated 21.1.2004 relating to the land for which Reference Court had passed the award on 5.2.1982 (Exhibit P-3). As discussed above, the notification of acquisition was issued in January, 1979 i.e. much after the notification was issued in the present case in 1976. Therefore, the judgments relied upon by the learned Counsel for the appellants related to different sets of facts and circumstances and cannot be made basis for determining market value of the land acquired in the present case.

20. The State has also failed to convince this Court if the rate of land has been assessed at a higher rate by the learned Reference Court. Therefore, there is no merit in the submission of learned Counsel for the State also.

21. There is no merit in both the appeals. The same are accordingly dismissed.