
(2004) 03 P&H CK 0129

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 766 of 1989

Jangir Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 24-03-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2004) 137 PLR 647 : (2004) 2 RCR(Civil) 838

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : Hemant Sarin, for the Appellant; B.S. Chahar, for the Respondent

Final Decision : Allowed

Judgement

Swatanter Kumar, J.—I have heard learned counsel for the parties at some length.

2. The claimants who were dissatisfied with the judgment and award passed by the learned District Judge, Patiala, dated 2.1.1989 enhancing the compensation payable to the appellants at the of Rs. 77,772,80 paise for Chahi land Rs. 62,720/- for Rausli/Dakar land and Rs. 43,904/- for gair mumkin have preferred the present Regular First Appeal before this Court.

3. The Government of Punjab issued notification u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act), acquiring land in Village Hadaitpura, Tehsil Rajpura for a public purposes namely construction of SYL Canal. The land measuring approximately 5.49 acres was acquired for that purpose. The Collector, vide his award dated 20th May, 1986, awarded the following compensation to the claimants:-

i) Chahi Rs. 62,000/- per acre ii) Rousli/Dakar Rs. 55,000/- per acre iii) Gair Mumkin Rs. 35,000/- per acre.

4. The claimants preferred reference u/s 18 of the Act. After providing opportunity to the parties to lead evidence, learned District Court enhanced the

compensation in the manner afore-quoted. The evidence exhibit R1 to R3 produced by the respondent was rejected on the ground that they determine the market value at a price which was lesser than what was granted by the Collector. Keeping in view the evidence on record, the learned reference court placed reliance on exhibit P9, judgment pronounced by the District Judge, Patiala, in relation to the land acquired vide notification dated 13/14.12,1982, for the same purpose and same village. Finding the same instance comparable and relevant piece of evidence, learned reference court granted compensation, which was adopted by the learned reference court.

5. The main contention raised on behalf of the claimants before this court is that exhibit P9 is a judgment of the court and a Regular First Appeal was preferred against the same, which was decided by the learned Single Judge, vide judgment dated 31st August, 1992, in the case of Khushal Singh and Ors. v. The State of Punjab and Ors., Regular First Appeal No. 2270 of 1987, the compensation awarded by the Collector in those cases was thus enhanced as under:-

- i. band abutting on either side of the road connecting Rajpura with Chandigarh via Banur and Zirkipur upto the depth of 150 feet is evaluated at Rs. 1,50,000/- per acre.
- ii. Chahi land at the rate of Rs. 1,00,000/- per acre.
- iii. Gair mumkin land at the rate of Rs. 60,000/- per acre.

They will in addition, be entitled to solatium and interest as provided under the amended Act."

6. The Letter Patent Appeal against the said judgment of the learned Single Judge was also dismissed by a Division Bench of this Court in LPA No. 220 of 1993 titled State of Punjab v. Khushal Singh, decided on 17th August, 1993. Again for enhancement of their compensation, the Hon"ble Apex Court, vide order dated 21st November, 1994 condoned the delay but dismissed the SLP in limini.

7. From the above discussion, it is clear that compensation awarded under exhibit P9 was enhanced by the High Court and affirmed by the Hon"ble Apex Court. Consequently, claimant would be entitled to the basic compensation awarded, vide exhibit P9.

8. Learned counsel appearing for the appellants further contended that the notification in Exhibit P9 related to the year 1982. The land subject matter of the appeal was acquired vide notification dated 4th September, 1985, as such for the intervening period, there would be adequate enhancement. However, learned counsel for the State contends that for the intervening period, there was no occasion for granting enhancement to the appellants, as fact of the acquisition was already known in the year 1982. The fact, which cannot be disputed is that there is difference of more than two years in acquisition of the land in question. The land may not be identically situated but the court below has held that exhibit

P9 was a comparable instance and relevant piece of evidence. It is not necessary for this court to grant further enhancement at the rate of 12% per annum on the determined value. The discretion of the court is to be regulated by the settled principle of law. In this regard, reference can be made to the judgment of the Supreme Court in the case of Mehtab Singh and others etc. etc. Vs. State of Haryana, . Following that principle, I am of the considered view that it is not a case where the claimants should be granted enhancement at the rate of 12% per annum for the intervening period between the period of notification Exhibit P9 and the notification in question in the present case.

9. Consequently, these appeals are partly allowed and the compensation awarded in Regular First Appeal No. 2270 of 1987 in Khushal Singh's case (supra) shall be the basic determined basis, to which the claimants may have been entitled to at the rate of 6% per annum. In this regard reference can be made to Krishi Udpadan Mandi Samiti v. Kanyaha Lal and Ors. J.T. 2000 (1) S.C. 251 with further enhancement for the intervening period of notification u/s 4 of the Land Acquisition Act, subject matter of exhibit P9 and the present notification at the rate of 6% per annum. The claimants would be entitled to statutory benefits in accordance with the provisions of the Act on the enhanced compensation.

10. It must be noticed at this state, that the claimants themselves have demanded compensation at the rate of Rs. 34,000/- per acre over and above the compensation already awarded vide exhibit P9 or the compensation awarded by the reference court. The prayer clause as framed by the claimants does not leave any scope in this regard for enhancement of compensation further to the amount claimed by them. They had paid court fee on that amount and the prayer clause is ambiguous in its terms as such the claimant would be granted enhanced compensation not in excess of Rs. 34,000/- per acre in addition to the compensation awarded to them by the reference court.

11. The appeal is allowed in the above terms, while leaving the parties to bear their own costs.