(1988) 08 P&H CK 0024

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 149 of 1987

Jaswant Singh and others APPELLANT

Vs

State of Punjab and another RESPONDENT

Date of Decision : 04-08-1988

Acts Referred:
Land Acquisition Act, 1894 — Section 4

Citation : (1988) 08 P&H CK 0024

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

Bench : Single Bench

Advocate : M.L. Sarin and Mr. A.S. Grewal, for the Appellant; K.P. Bhandari, A.G. Punjab and Mr. K.B. Bhandari, for the Respondent

Final Decision : Dismissed

Judgement

I.S. Tiwana, J.—These fifty appeals first twentyfive (R. F. A Nos. 145 to 153, 214, 215, 220, of 1987, 2876 to 2888 of 1986) preferred by the landowner-claimants and the remaining (R. F. A. Nos. 299 to 319,321 to 324 of 1987) by the State of Punjab are being disposed of together as the common questions of law and fact involved therein are identical. The sole point that needs to be determined relates to the market value of the land acquired (22.4. acres) by the State authorities in pursuance of a notification published u/s 4 of the Land Acquisition Act (for short the ''Act'') on December 11,1981. It was acquired for the construction of Government Polytechnic Institute at Bhatinda Concededly the entire acquired land is within the municipal limits of that town. Whereas the Land Acquisition Collector evaluated it at Rs. 65 000/- per acre for purposes of paying compensation to the claimants the District Court has enhanced this rate to Rs. 75,000/- per acre as a result of the respective references sought by the landowner-claimants. Both the sides are not satisfied with this award. Hence these appeals.

2. The parties are not at variance so far as the location and potentiality are concerned, the suit land had come to acquire by the time it was notified for

acquisition. This what the lower Court has observed in this regard.

Moreover, it is admitted by Kewal Krishan, Patwari (R.W. 1) that quarters of army officers have been constructed on both side of the land even before the acquisition. Kewal Krishan (RW 1) has wrongly stated that the acquired land is outside the municipal limit whereas the notification copy of which is Ex. AW6/A shows that the acquired land comes within the Municipal Limit. From the perusal of the site plan Ex. A1 which is map of the Town Planning Office. Ex. A2 which is the site plan of the Revenue Patwari and Ex. R19 which is a copy of the map produced by Union of India show that military cantonments is across the road opposite to the acquired land there is a Kamla Nehru Scheme at the junction of Bhatinda-Bibiwala, Bhatinda-Barnala road and that map also shows that co-op. Teachers Society, land for Engineering Colony etc. are near the acquired land. When the acquired land is within the revenue limits of M. C. Bhatinda and it is surrounded by the land which has been purchased for establishment of the colonies. Bhatinda is a developing town because with the establishment of National Fertilizer Limited, Thermal plant and other factories Bhatinda is developing rapidly. So in these circumstances, revenue or agricultural classification of the land not at all a true indicia for its market value and the compensation is to be assessed primarily on the ground of potentialities of land for urban development.

Therefore, it goes without saying that the land in question had great potential for being used for residential as well as commercial purposes.

3. The primary grouse of Shri M. L. Sarin, learned Sr. Advocate for the landowner-claimants, is that the lower Court has hardly specified any good reason for ignoring the sale instances relied upon by his clients for fixing the market value of their land and, this is more so, in the case of those transactions which formed part of the acquired land itself. A perusal of the judgment shows that all the sale transactions have practically been ruled out for the reasons that either the area covered by the same were too close to the date of notification u/s 4 of the Act. For adopting this approach, the lower court appears to have been influenced by the supposed rule of law ; that only the sale deeds falling within one year prior to the date of notification u/s 4 of the Act are to be taken into consideration for the determination of the market value of the acquired land. No such rule has been brought to my notice by either of the learned Counsel nor has the Court made reference to any particular rule or precedent in this regard. No doubt, it is true that normally in such matters the sale instances which are close to the date of notification u/s 4 of the Act may be preceding or even subsequent to it have to be preferred to the other instances relating to a distant point of time but there is no such inflexible rule that the sale instances falling within one year of the date of notification only have to be considered. I, therefore, accept this stand of the learned Counsel. Further it is not in dispute that a similar notification for the acquisition of this very land was issued on 18.8.1978 but the same was allowed to lapse with the passage of time The acquisition was intended for the

construction of a Defence Colony by the Improvement Trust Bhatinda. On account of pendency of these proceedings no sale transaction could possibly take place since the year 1978. Now not to consider or weigh the evidence of the sale instances produced by the claimants pertaining to the years earlier to the year 1978 for determining the market value of their acquired lands in the year 1981 on account of the fact that those instances pertained to a period more than one year prior to the date of notification would be unjust and arbitrary. I, therefore, cannot sustain this part of the lower court judgment. Mr. Sarin appears to be wholly right in submitting that there is no justification whatsoever not to take notice of the sale instances which from part of the acquired land itself. The details of these transactions are as follows:

Exh No.

Sale deed No and date

Area sold

Amount of consideration

Average per acre

Ex./1

3166/10-11 66

10 biswas

Rs. 12,500/-

Rs. 1,21,000/-

Ex./17

3891/11-9 73

I.B 2 Biswas

Rs. 8,000/-

Rs. 32,266/-

Ax/18

2909/1-10-76

66 sq. yards

Rs. 8,000/-

Rs. 35,200/-

Ax/19

3890/11.9.73

J.B. 13 biswas

Rs. 12.000/-

Rs. 35,200/-

A/3

4379/7-11-74

2250 sq. yards

Rs. 25,000/-

Rs. 53,777/-

A/4

4374/7-11-74

2 B 5 B.

Rs. 15,000/-

-do-

These transactions apparently show a galloping rise in price of land from the year 1973 to 1976 If the average price of these transactions per acre is to be taken into consideration, the same works out to Rs. 60,580(sic)/-. But that was the price prior to the date of the present notification. If the rising trend of the prices, as indicated by the above noted instances, is not to be ignored there are no reasons for that then the price of the land must have doubled during the five years. i. e., from 1976 to the date of the present notification The price of the acquired land thus comes to Rs. 1,20,000/- per acre. This conclusion is not only supported by some other sale instances referred to in para 10 of the impugned judgment but there is also evidence on record to show that the Tehsildar concerned had initially proposed the market price of the acquired land at Rs. 1,50.000/- but the District Collector later approved it to Rs. 1, 00000/- per acre. Besides this, I also seek support from another Judicial pronouncement pertaining to the market value of the adjoining land. It is the conceded case of the parties that the Union of India acquired more than ten thousand bighas of land for the establishment of a cantonment at Bhatinda. The requisite notification in this regard was published u/s 4 of the Act on October 19, 1974. That land too formed part of the Bhatinda Revenue Estate where the presently acquired land is situated Plan, Exhibit A-2, firmly establishes that that land adjoined the presently acquired land. For that acquisition, the market value of the land was determined by this Court at different rates varying from Rs. 38,000/- per acre to Rs. 72,000/- per acre depending upon the location of the area vis-a-vis the Municipal limits. This determination was later on approved by their Lordships of the Supreme Court in Bhag Singh and Others Vs. Union Territory of Chandigarh through the land acquisition collector, Chandigarh, , and the land falling within a depth of 500 meters from the municipal limits of the town was valued at Rs. 72,600/-per acre. If that was the rate given to the landowners whose lands were situated outside the municipal limits of the town in the year 1974, then I see no reason or justification not to award a substantial higher rate to the claimants for their lands which fell within the municipal limits of the town since the year 1977. I am, therefore, satisfied that the reasonable rate of market value to which the claimants are entitled, is Rs. 1.20,000/-per acre and I fix it at that. Their appeals are thus allowed to this extent with proportionate costs. It is needless for me to say here that the relief granted to them by the lower Court in the matter of payment of additional amount, solatium and interest as envisaged by Sections 23 (1-A), 23 (2) and 28 of the Act remains undistrubed.

4. At this stage, it is brought to my notice that some of the claimants could not afford to pay the requisite court fee at the time of the filing of the appeals on account of paucity of funds. In the light of the observation made in Bhag Singh''s case (supra) they are allowed to make up the deficiency in court fee within a period of two months from today. In case of default, their claim to the extent not covered by the Court fee paid by them would be taken to have been dismissed.

5. In the light of the above noted conclusion of mine, the State Appeals have obviously to fail and are dismissed but with no order as to costs.

