
(2003) 09 P&H CK 0022

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 982 of 1987

Jaswinder Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-09-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2004) 137 PLR 644

Hon'ble Judges : J.S. Narang, J

Bench : Single Bench

Advocate : M.L. Sarin and Swana Pannu, for the Appellant; S.K. Sharma, for the Respondent

Final Decision : Allowed

Judgement

J.S. Narang, J.—Land comprised in Village Bhucho Khurd, Tehsil and District Bathinda had been acquired by Bathinda Cantonment vide notification dated 10.5.1979 issued u/s 4 of the Land Acquisition Act and subsequently, notification was issued u/s 6 of the aforesaid Act. The structures constructed thereon including tubewells had also been acquired by virtue of the said notification and possession was taken thereof.

2. The claimant filed reference u/s 18 of the Land Acquisition Act for claiming compensation in respect of the tubewell and that no other claim was filed in respect of the compensation granted with regard to the land. The Land Acquisition Collector assessed the value of the tubewell as Rs. 32,193/-. It is this value which had been challenged by way of reference. The claimant has in fact claimed compensation to the extent of Rs. 80,000/-. Upon the pleadings of the parties, the issues had been struck and the evidence oral as well as documentary was also produced.

3. The claimants have produced as expert, i.e., Shri H.S. Viridi, an Engineer who had assessed the value of the property in details and that the report submitted

by him has been exhibited as Ex.A1 to A3. As per this report, the value has been assessed as Rs. 55944/- and that out of the said assessed value, an amount of Rs. 32193/- stood received by the claimant.

4. The reference Court after considering the evidence on record and examining the methodology under which the assessment should be made granted Rs. 2375/- as the compensation for the tubewell being 10 % of the difference of the value i.e. Rs. 23750/-.

5. Being dissatisfied, the claimant has filed the present appeal, Learned counsel for the appellant has placed reliance upon a judgment of this Court rendered in RFA No. 1918 of 1984-Union of India v Bachan Singh, decided on 26.9.1988 and reported as 1989(2) RLR140. It has been categorically held that the compensation granted by way of percentage of the value is without justification and that infact the compensation in respect of the property ought to be granted on the basis of the market value which may be projected as a proof before the Court. In the present case an expert had been produced, who has given the value which has not been controverted by Union of India.

6. Learned counsel for the respondent has not been able to controvert the contention of learned counsel for the appellant. It has been further disclosed that the aforesaid judgment relied upon by the counsel for the appellant has not been upset by any Court as yet.

7. In view of the above, the appeal is allowed with costs and the compensation in respect of the tubewell is awarded as per the market value proved on record i.e. Rs. 55944/-. It is clarified that any amount received shall be deductible accordingly and that the amount so payable shall also carry solatium and interest accordingly in pursuant to the amended law. Appeal allowed.