(2008) 12 P&H CK 0167

In the Punjab And Haryana At Chandigarh

Jiwan Dass and Others	APPELLANT
Vs	
State of Haryana and Others etc. etc.	RESPONDENT

Date of Decision : 05-12-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2008) 12 P&H CK 0167

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Judgement

Rajesh Bindal, J.—This order shall dispose of Regular First Appeal Nos. 361 to 363, 683, 1091, 1095, 1102, 1103, 1164, 1165, 1168, 1169, 1747 to 1751, 1770, 1779 to 1788, 925, 2076 to 2080, 2129 to 2132, 2229 to 2246, 2289 to 2293, 2338, 2345, 2362, 2372, 2580 to 2602, 2620, 2752 to 2754, 2796, 2797, 2822, 2852, 2871, 2881, 3011 to 3016, 3044, 3045, 3065, 3094, 3095, 3191, 3192, 3709, 3870, 4137 to 4140, 4486 of 2007, 258 to 262, 291, 368, 371, 401, 414, 431, 717, 862, 959, 1002, 1817 and 1959 of 2008, filed by the landowners seeking further enhancement of compensation and R. F. A. Nos. 564 to 590, 592 to 606, 616 to 673, 676 to 681, 850 to 924, 926 to 968, 976 to 982, 1055 to 1057, 1157, 1184 and 1185 of 2007 filed by the State seeking reduction in the compensation for the acquisition of land, as the same arise out of the same acquisition. However, the facts have been extracted from R. F. A. No. 361 of 2007.

2. Briefly, the facts are that vide notification dated 9.8.2002, issued u/s 4 of the Land Acquisition Act, 1894 (for short, ''the Act''), the State of Haryana acquired 277.36 acres of land situated within the revenue estate of Village Patti Kaisth Seth Kaithal, Tehsil and District Kaithal, for public purpose of development and utilisation of the land as residential, commercial and institutional Sector-21 Kaithal. The Land Acquisition Collector (for short, the Collector) vide his award dated 5.8.2005 assessed the market value of the land at Rs. 5 lacs per acre. Dissatisfied with the award of the Collector, the landowners/claimants filed objections. On reference u/s 18 of the Act, the learned court below vide award

dated 30.11.2006, determined fair value of the acquired land at Rs. 350/- per square yard.

3. Learned Counsel for the landowners/claimants submitted that the acquired land had a very strategic location being situated on Ambala- Hissar National Highway on the one side and road leading to Guhla-Cheeka. It was further submitted that Colony of the Electricity Board Employees namely Vidyut Vihar Colony, is part of the acquired land. The land in question was acquired for development and utilisation of Sector-21 and this sector consists of Vidyut Vihar Colony, Radha Swami Colony, D.A. v. Colony, Radha Swami Satsang Bhawan, Central Public School and adjoining D. C. Colony. It was further submitted that Sector-20 which is just across the Ambala-Hissar road on the other side had already been developed after the land therefore was acquired in the year 1989 where this Court had assessed the value of the acquired land at Rs. 2,90,000/- per acre. The acquisition in the present case was 13 years later in the year 2002. The land was situated within the municipal limits. The value as assessed by the learned court below merely relying upon the Collector''s rates called for further increase for the reason that in the year 1991 more than 10 acres of land was purchased by the employees of the Erstwhile Haryana State Electricity Board for the purpose of construction of houses by forming a society namely Vidyut Vihar Colony. It was @ Rs. 190/-per square yard. An increase of 15% per annum can be granted thereon considering judgment of this Court in Smt. Lille Madanjit v. Land Acquisition Collector, for Punjab State Electricity Board, Patiala 2008 (3) R. C. R. 452 and the value of the acquired land would require further increase by this Court. Even other sale transactions namely Ex. P-3 and P-4 showing the value of the acquired land have not been considered at all. Keeping in view the fact that the land falls within the municipal limits where the plots are always sold in square yard and about 100 houses were already build on the acquired land, a residential colony in the name of Radha Swami Colony had already been developed, itself shows that the land had great future potential and was already in the process of being urbanised. The pressure for expansion of the city was on this side.

4. On the other hand, learned Advocate General appearing for the State submitted that the learned court below has totally gone wrong in placing reliance on the Collector''s rates fixed for registration of sale-deeds which is not a good piece of evidence to be relied upon for the purpose of determination of fair value of the acquired land as has been held by Hon''ble the Supreme Court in Krishi Utpadan Mandi Samiti Sahaswan District Badaun through its Secretary v. Bipin Kumar and Anr. 2004 (1) SCC 283. He further submitted that what to talk of increase the amount as has already been granted to the landowners in the present case deserves decrease as there is practically no evidence except the Collector''s rates. Other sale-transactions Ex. P-3 to P-5, which are in the form of small plots, could not have been relied upon as such for the purpose of determination of fair value of the acquired land which is a big chunk of 277.36 acres of land. As far as the location of the land is concerned, the same could not

be disputed. He further submitted that reliance on the transactions which took place in the year 1991 whereby 10 acres of land was purchased by the employees of Electricity Board for carving out a colony for its employees is totally misplaced for the purpose of determination of fair value of the land acquired in the year 2002.

5. Heard learned Counsel for the parties and perused the record.

6. A perusal of para 39 of the impugned award shows that after referring to the evidence led by the parties, the reference court merely relied upon the document Ex. P-162 which is a Collector''s rates for the purpose of registration of sale-deeds in the area.

7. Hon''ble the Supreme Court in Bipin Kumar''s case (supra), while relying upon its earlier judgment in Jawajee Nagnatham Vs. Revenue Divisional Officer, Adilabad, A.P. and Others, opined that the reliance by the reference court on the value fixed by the District Magistrate for payment of stamp duty for registration of sale-deed is clearly erroneous. The judgment part is extracted below:

8. It has been held by this Court in the case of Jawajee Nagnatham Vs. Revenue Divisional Officer, Adilabad, A.P. and Others, that market value u/s 23 of the Land Acquisition Act, 1894 cannot be fixed on the basis of a basic valuation register maintained by the registering authority for collection of stamp duty. Therefore, the reliance by the Reference Court on the value of land fixed by the District Magistrate for stamp duty purposes is clearly erroneous. For the purpose of Land Acquisition Act the market value must be determined on the basis of sale deeds of comparable lands.

9. Considering the fact that the learned reference court has merely relied upon the Collector''s rates fixed for payment of stamp duty for registration of sale-deeds which as such could not be made the basis of determination of fair value of the acquired land and other evidence having not been considered, in my opinion, it would be appropriate to set aside the impugned award and remit the case back to the reference court for redetermination of the value of the acquired land on the basis of other relevant evidence on record.

10. The parties through their counsels are directed to appear before the learned District Judge, Kaithal, on 30.1.2009. The learned District Judge may either keep the references with himself or may entrust the same to any other Additional District Judge for fresh consideration on the basis of material on record.

11. It is further made clear that the amount of compensation if already paid to the landowners shall not be recovered from them during the pendency of the proceedings before the learned reference court and the same shall abide by any final decision therein.

12. The appeals are disposed of in the above terms.

