
(1999) 01 P&H CK 0027

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 2229 of 1989 in Regular First Appeal No. 1331 of 1982

Jiwan Singh

APPELLANT

Vs

Punjab State Electricity Board

RESPONDENT

Date of Decision : 18-01-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 4

Citation : (1999) 123 PLR 43 : (1999) 3 RCR(Rent) 153

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : H.S. Sangha and Kirti Kumar, for the Appellant; Gobind Goel, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—On 30.5.1978, the State of Punjab issued a notification u/s 4 of the Land Acquisition Act, 1894. The Land measuring 40 kanals 15 marlas situated in village Alamgir, Tehsil and District Kapurthala was sought to be acquired for the Punjab State Electricity Board. The Land Acquisition Collector fixed the market value of the acquired land at Rs. 12,000/- per acre. The landowners sought a reference u/s 18 of the Act. The Additional District Judge, Kapurthala vide his award dated 31.3.1982 enhanced the market value of the land to Rs. 20,000/- per acre. Not satisfied with the award, the landowners approached this Court. The learned Single Judge fixed the market value at Rs. 60,000/- per acre. The landowners are still not satisfied. They have filed these two Letters Patent Appeals Nos. 2229 of 1989 and 818 of 1994.

2. Learned counsel for the parties have been heard. The short question is what was the market value of the land on 30.5.1978?

3. On the basis of the evidence, the learned Additional District Judge had fixed the value at Rs. 20,000/- per acre. The learned Single Judge has however chosen

to rely upon the sale instance contained in Exhibit A.2, a sale deed which was executed more than three months after the issue of the notification u/s 4 of the Land Acquisition Act, 1894 on 7.9.1978. It was in respect of a small piece of land measuring only 2 kanals. On the basis of this transaction, the learned Judge has fixed the value of Rs. 60,000/- per acre.

4. Mr. Suvir Sehgal, learned counsel for the appellant in L.P.A. No. 818 of 1994 contends that merely because the sale deed had been executed after the issue of the notification u/s 4 of the Act, did not imply that it has to be excluded from consideration. Still further, it has been contended that the learned Single Judge has erred in applying a cut of 40 per cent. Similarly, Mr. H.S. Sangha, learned counsel for the appellant in L.P.A. No. 2229 of 1989 has contended that the market value of the land was in fact higher than what has been awarded by the learned Single Judge.

5. The claim made on behalf of the appellants has been controverted by the learned counsel for the respondent-Punjab State Electricity Board.

6. It is the admitted position that according to the sale deed which had been executed prior to the issue of the notification u/s 4 of the Act, the market value of the land was not in excess of Rs. 20,000/- per acre though sale transactions were in respect of small pieces of land. Yet, relying upon a sale deed which was also in respect of only two kanals of land and had been executed more than three months after the issue of the notification u/s 4 of the Act, the learned Single Judge had determined the market value of the land at Rs. 60,000/- per acre. Since the respondent-Board has not filed an appeal, we have to accept the value as fixed by the learned Single Judge.

7. Mr. Sehgal has contended that bonafide sale transactions executed after the issuance of notification u/s 4 of the Land Acquisition Act can be taken into consideration. There is no quarrel with the proposition. In a case where there is no evidence with regard to the sale transactions prior to the issue of the notification u/s 4, the Court can refer to the subsequent instances. However, in the present case, there were instances of the sale of land prior to the issue of the notification u/s 4. The value according to those instances had been worked out to be Rs. 20,000/-. In this situation, the view taken by the learned Single Judge by relying upon the sale deed executed after the notification u/s 4 appears to be rather liberal. However, since the order of the Hon"ble Judge has attained finality, it has to be accepted.

8. Mr. Sehgal has also referred to the decision of the Supreme Court in Smt. Kausalya Devi Bogra and Ors. etc. v. Land Acquisition Officer, Aurangabad and Anr. AIR 1934 SC 892. The learned counsel referred to the observations in paragraph 13. On perusal of the decision, we find that their Lordships had expressed the view that in the matter of fixation of compensation, it should be kept in view that "when such tracts were acquired, the transactions in respect of small properties do not offer a proper guideline." This is undoubtedly, so. In the

present case, the transaction relied upon by the learned Single Judge is in respect of a small piece of two kanals, whereas the actual land acquired was more than 40 kanals. Yet the appellants are not satisfied.

9. The appellants have got more than their due. They have no cause for grievance. The appeals are totally misconceived. These are accordingly dismissed. However, in the circumstances, there will be no order as to costs.