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(1996) 11 P&H CK 0111

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 302 of 1996

Jogi Ram and Others — APPELLANT

Vs

State of Haryana and Another — RESPONDENT

Date of Decision : 29-11-1996

Acts Referred:
Land Acquisition Act, 1894 — Section 23

Citation : (1997) 116 PLR 303 : (1997) 3 RCR(Civil) 377

Hon'ble Judges : V.S. Aggarwal, J;Sat Pal, J

Bench : Division Bench

Advocate : R.K. Malik, for the Appellant; Deepak Sibal, for the Respondent

Judgement

Sat Pal, J.—By this judgment, we are disposing of 41 LPAs bearing L.P.A. Nos. 114, 115, 268, 315, 389, 472, 473, 474, 289, 290, 291, 292, 293, 294, 529, 530, 531, 602, 603, 604, 605, 606, 607, 608, 609, 656, 657, 658, 646, 685, 729, 730, 731, 732, 733, 734, 735, 736, 750 and 256 of 1996 as all these LPAs have been filed against the same judgment dated 7th July, 1995.

2. For the purpose of this judgment, the facts of L.P.A. No. 302 of 1996 have been taken. Vide Notification dated 15th December, 1982, issued u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act), the land involved in all these cases, was taken for the public purposes for the development and utilization as residential/commercial and Industrial Area in Sectors 11, 12 and 25 (Phase II) in Urban Estate, Panipat. The Land Acquisition Collector awarded compensation at the rate of Rs. 59,200/- per acre. Since the landowners were not satisfied with the award of the Land Acquisition Collector, reference u/s 18 of the Act was made to the Additional District Judge, Karnal who vide his judgment/ award, dated 1st August, 1988, awarded compensation at the rate of Rs. 27/- per sq. yard. Aggrieved by the judgment passed by the learned Additional District Judge, Karnal, all the appellants filed regular first appeals. All these appeals were disposed of by a common judgment dated 7th July, 1995, passed by a learned Single Judge of this Court. The learned Single Judge vide the

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aforesaid judgment, held that the land owners (appellants) were entitled to compensation of their acquired land at the rate of Rs. 72/- per sq. yard with proportionate costs, and they were further held entitled to grant of all statutory benefits of the amended provisions of Sections 23(1-A), 23(2) and 28 of the Act. Aggrieved by the said judgment, passed by the learned Single Judge, these appeals have been filed by the appellants.

3. Mr. Malik, learned counsel appearing on behalf of some of the appellants, drew our attention to pages 20 and 21 of the paper book and submitted that the learned Single Judge had himself given a finding that the Improvement Trust had auctioned the land in the year 1977 in the colony adjacent to the land in dispute at the rate of Rs. 140/- per sq. yard and in 1982, plots were sold at the rate of Rs. 450/- per sq. yard and these facts showed that there was a rising trend in prices to the extent of 300% from the date when the land which was acquired referred to as third acquisition in the case of Hukam Chand and Others Vs. Haryana State, . He further submitted that in the case of Hukam Chand (supra) the value of the land was assessed at Rs. 42/- per square yard and keeping in view the said finding, the value of the land of the appellants should have been fixed at Rs. 126/- per square yard. The learned counsel further drew our attention to page 23 of the paper book and submitted that the learned Single Judge after fixing the market value of the land at Rs. 120/- per sq. yard had held that it could be appropriate if deduction was made to the extent of 40 per cent. He submitted that deduction towards providing amenities etc. could be to the extent of 25% and not 40%. In support of his submissions, the learned counsel placed reliance on a judgment of this Court in Brijinder Singh Vs. The Land Acquisition Collector, P.S.E.B. and Another, .

4. Mr. Deepak Sibal, learned counsel appearing on behalf of some other appellants reiterated the submissions made by Shri Ram Kumar Malik. He further submitted that the learned Single Judge in the impugned judgment had stated that whenever the land was under acquisition it could fetch the price much lower than the price prevalent in the market and in view of this observation, the deduction towards providing amenities to the extent of 40% was on the higher side. He also submitted that in view of the observations of the learned Single Judge that there was a rising trend in prices to the extent of 300% from the date when the land was acquired referred to 3rd acquisition in the case of Hukam Chand (supra), the learned Single Judge ought to have fixed the rate of land at Rs. 126/- per square yard instead of Rs. 120/-. In support of his submissions, the learned counsel placed reliance on a judgment of the Supreme Court in Harbans Lal Jain Vs. Union of India (UOI), .

5. Mr. Nagpal, learned counsel appearing on behalf of some other appellants, reiterated the submissions made by Shri R.K. Malik and Shri Deepak Sibal, Advocates.

6. Mr. Mahesh Grover, learned counsel appearing on behalf of the State submitted that the observation of the learned Single Judge that there was a

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rising trend in prices to the extent of 300% from the date then some portion of the land in question was acquired earlier in 1978, should not be read in isolation. He submitted that the learned Single Judge had relied on sale deeds, Exhibits P.5, P.6 and P.7, which had been held as genuine transactions pertaining to the period when the land of the appellants was acquired and taking the average of the prices of these three sale deeds, had fixed the price of the land at Rs. 120/- per sq. yard. He further submitted that the contention of the learned counsel for the appellants that deduction towards providing amenities should be 25%, had no force as such deduction could not be less than 1/3rd of the compensation as per law laid down by the Hon''ble Supreme Court.

7. We have given our thoughtful consideration to the submissions made by the learned counsel for the parties and have perused the records. Admittedly, as per evidence produced in these cases, three sale deeds (Exhibits P5, P6 and P7) have been relied upon by the learned Single Judge. These sale deeds are in respect of the same land and pertain approximately to the same period when the land of the appellants was acquired. Taking into consideration the said sale deeds, the average rate of the land has been worked out by the learned Single Judge as Rs. 120/- per sq. yard. Since the said rate as worked out by the learned Single Judge is based on legal and valid evidence on record, we are of the considered opinion that the said rate of Rs. 120/- per sq. yard does not warrant any interference.

8. Coming to the point of deduction towards providing amenities, the learned Single Judge has held as follows:

"The acquisition in question is dated 15.12.1982 and by making suitable allowance which has to be made to account for the land required to be set apart for roads, open spaces, sewerage, water and electricity lines etc. and by taking into consideration that the facilities like water, electricity and telephone are available in the adjoining land which had already developed when the land in question was developed, I am of the view that it would be appropriate if deduction is made to the extent of 40 per cent. Accordingly, the market value of the land is fixed at Rs. 72/- per sq. yard."

9. From the observations of the learned Single Judge, reproduced herein above, it is clear that the learned Single Judge has not relied on any precedent for fixing the deduction to the extent of 40% nor he has relied on any judgment of this Court or of the Hon''ble Supreme Court for this purpose. The point with regard to such deduction, however, came up for consideration before Hon''ble Supreme Court in a recent case, Basant Kumar and Others Vs. Union of India (UOI) and Others, , wherein the Hon''ble Supreme Court held as under;

"Merely because a land is developed or a developing land, it would not be that some compensation is to be deducted to determine the market value of the entire land as developed land. If it is to be developed, it is settled position that at least 1/3rd of the compensation has to be deducted towards providing amenities like roads, parks, electricity, sewerage, water facilities etc."

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Even in the case of Hukam Chand (supra) which pertains to some portion of the land in question which was acquired in the year 1977, a Division Bench of this Court had held that 1/3rd of the compensation should be deducted towards providing amenities. In view of the law laid down by the Hon''ble Supreme Court and this Court, we are of the view that it would meet the ends of justice if 1/3rd of the compensation instead of 40% is deducted towards providing the amenities like roads, parks, electricity, sewarage, water facilities etc. Accordingly, the market value of the land is fixed at Rs. 82/- in stead of Rs. 72/- per sq. yard.

10. For the reasons recorded herein above, the appeals filed by the landowners (appellants) are allowed to the extent that they are held entitled to the compensation of their acquired land at Rs. 80/- per sq. yard, with proportionate costs. They are further held entitled to the grant of all statutory benefits of the amended provisions of Sections 23(1-A) 23(2) and 28 of the Act.

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