(1979) 02 P&H CK 0006

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 171 of 1971

Kalyan Dass Chela Sukhram Dass — APPELLANT

Vs

The State of Haryana — RESPONDENT

Date of Decision : 26-02-1979

Acts Referred:
Land Acquisition Act, 1894 — Section 4

Citation : (1979) 02 P&H CK 0006

Hon'ble Judges : S.S. Sandhawalia, J;G.C. Mittal, J

Bench : Division Bench

Advocate : H.L. Sarin, with Mr. S.K. Gawari, for the Appellant; S.C. Mohunta, A.G. Hary with Mr. N.K. Kapoor, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sandhawalia, C.J. and G.C. Mittal, J.—Learned counsel for the parties are agreed that this judgment will govern this set of twenty-two regular first appeals as the points of fact and law are identical.

2. By the Government Gazzete Not fication No. 2491 8-TPC-66/25865, dated the 8th of September, 1966, published on the 23rd of September, 1966, the Haryana Government u/s 4 of the Land Acquisition Act notified that the land measuring 1102 Kanals 15 Marlas specified in detail therein was likely to be needed for the public purpose of the planned development of Sector No. 24 of the Ballabgarh Faridabad controlled area. This was then followed by a notification u/s 6 of the aforesaid statute published in the Government Gazette on the 8th of August, 1969. Consequent there upon the Land Acquisition Collector proceeded in the matter and gave his award in respect of the land in question and settled the compensation at various rates for the different claimants therefor. It is unnecessary to go into the details of the rates of compensation awarded by the Collector and it suffices to mention that the landowner-claimants not being satisfied by the award preferred references u/s 18 of the Land Acquisition Act. The primary claim therein was that the compensation allowed was far below the

market value and that the land had been erroneously evaluated as agricultural land whilst ignoring its high potential for development as industrial and residential areas. Claims were also made for wells, tubewells, buildings and other constructions, etc, on the land.

3. These references were inevitably contested on behalf of the State of Haryana who opposed any enhancerment of the compensation, both for the value of the land or the construction or tube-wells thereon. A number of reference were consolidated with the consent of the parties and on the pleadings the following issues were struck :--

1. What was the market value of the land in question in all these petitions on the date of the notification u/s 4 of the Land Acquisition Act ?

2. Whether any wells, tube wells, buildings or any other construction existed on the acquired land of any of the claimants. If so, what was their market value on the date of the above mentioned notification ?

3. What is the market value of the trees standing on any of the acquired land on the date of the above said notification ?

4. Whether the acquisition caused severence and fragmentation of holdings of the claimants. If so, whether they are entitled to any compensation on that ground and how much ?

5. Whether the applicants had received compensation amount under protest in respect of all the lands in question in these references and whether this objection can be raised by the Haryana State ?

6. Whether the claimants are barred from claiming the amount u/s 25 (2) of the Land Acquisition Act ?

4. Counsel for the parties are agreed that the only material issue herein is with regard to the market value of the land. Thereunder after an exhaustive discussion of the evidence brought on the record by the parties and a reference to the case law on the point the learned Additional District Judge by the judgment under appeal held as follows :--

The result of the above discussion is that the market value of the acquired land should be fixed at the following rates:--

1) Irrigated, cultivated and Gora Deh at the rate of Rs. 100/- per marla.

ii) Uncultivated land at the rate of Rs. 75/- per marla.

I decide this issue accordingly.

5. It seems not only unnecessary but even wasteful to advert to the evidence recorded in the case or to reappraise the same. This is so because the sole, though forceful, contention raised on behalf of the appellant land-owners is that the matter stands concluded more or less in their favour by the judgment of this

Court in Man Chand etc v. The State of Haryana R.F.A. 415 of 1968 (R.F.A. No. 415 of 1968 decided on the 24th January, 1978) which in turn relied upon Puran v. The State of Haryana R.F.A. 407 of 1968 (RFA No. 407 of 1968 decided on Ist June, 1977). This contention on behalf of the appellants has not been adequately met by the learned Advocate General of Haryana appearing for the respondent-State. We are, therefore, of the view that the present case is substantially, if not entirely, covered by the aforesaid two judgments.

6. In the case of Puran Chand (supra), the land in dispute was acquired for the development of Sector 24 of the Ballabgarh Faridabad Complex as in the present case itself. It is not in dispute that the lands in that case and in the present one are adjacent to each other. No meaningful disparity in its location and potentiality for being put to urban uses of the land in the present case with that in the earlier case could even remotely be pointed out to us on behalf of the State by the Advocate General Haryana. Equally worthwhile it is to recall that in Puran Chand''s case (supra), the notification was issued on August 10, 1966 and there is only a marginal difference of about a month in the issuance of notification in the present case. In that case compensation at the rate of Rs. 6/- per square yard without reference to its agricultural quality was granted by the learned Single Judge.

7. Now apart from the above it further deserves recalling that in Man Chand''s case (supra) also the land acquired fell within the revenue estate of village Majesar as it is in the present case. Therein the same was acquired for the development of the adjoining Sector 25 of the Ballabgarh-Faridabad area. The learned Single Judge following the earlier assessment in Puran Chand''s case (supra) granted compensation at the average rate of Rs. 6/- per squre yard. Against this judgment, deciding a number of claims. Letters Patent Appeal No. 218 of 1979 was preferred which was dismissed in limini on April 25, 1978. It is thus manifest that in a way the present case would be squarely covered by Mam Chand''s case upheld by the Letters Patent Bench.

8. There has been a half-hearted attempt on the part of the respondent-State of Haryana to place some reliance on the judgment in The State of Haryana v. Rajinder Singh R.F.A. 229 of 1970 (RFA No. 229 of 1970, decided on 19th February, 1979) Therein also the acquisition was for Sector 25 of the Ballabgarh-Faridabad Urban estate. Compensation was awarded at three varying rates of Rs. 230/- Marla; Rs 200/- per Marla and Rs. 120/ per Marla depending upon the quality of land by the Additional District Judge, Gurgaon, which was upheld in appeal. The learned Advocate-General has been unable to persuade use that the land in the present case is at par with the lowest quality in Bajinder Singh''s ease. It is significant to notice that the two higher categories of land therein were assessed even at a rate higher than of Rs. 6/- per square yard. We are unable to see how this case in any way aids the stand of the respondent-State.

9. For the reasons aforesaid, we allow the appeals filed by the landowner-claimants and enchance the rate of compensation to Rs. 6/- only par square

yard. They will also be entitled to the solatium for compulsory acquision at the statutory rate of 15 percent. Interest on the compensation allowed would run at the rate of 6 percent from the 1st July, 1967, and at the rate of 4 percent prior thereto in accordance with the Division Bench judgment in Ram Saran Dass v. Har kishan Lal 1977 P.L.J. 340. The landowner appellants would also be entitled to their costs.

10. In view of the aforesaid findings, the appeals filed by the State of Haryana against the judgment of the Additional District Judge are without merit and are hereby dismissed. The parties, however, in this set of cases will bear their own costs.

