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**(2003) 08 P&H CK 0003**

**In the Punjab And Haryana At Chandigarh**

**Case No : Regular First Appeal No. 1224 of 1981**

Kanshi Ram, Asa Ram and Piara

APPELLANT

Vs

Punjab State Electricity Board and others

RESPONDENT

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**Date of Decision : 27-08-2003**

**Acts Referred:**

**Citation : (2004) 2 LJR 816 : (2004) 1 RCR(Civil) 690**

**Hon'ble Judges : V.K.Bali, J**

**Advocate : Mr. Pritam Saini, Advocate. Mr. K.K. Goel, Advocate., Advocates for appearing Parties**

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## **Judgement**

V.K. Bali, J. (Oral)

1. As in every case, so also in this, the prayer of land owner appellants is for fixing of proper market value of the land, subject matter of acquisition, and consequent thereof to enhance the market price above, fixed by the learned District Judge.

2. Brief facts giving rise to this regular first appeal reveal that land measuring 196 kanals 13 marlas in Village Bhagwala was intended to be acquired for public purpose, namely, Anandpur Sahib Hydel Project, by the Government when Notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 16.2.1978. A follow up declaration under Section 6 of the Act was issued on 4.8.1978. Learned Land Acquisition Collector vide his award dated 16.1.1979 categorised the land as Chahi, Barani and Banjar Qadim. Whereas Rs. 20,000/ per acre was fixed as market value of Chahi land, it was Rs. 16,000/ and Rs. 6,000/ per acre for Barani and Banjar Qadim, respectively. Dissatisfied with the inadequate compensation assessed by learned Land Acquisition Collector, the land owner appellants sought reference under Section 18 of the Act. Learned District Judge, vide his judgment, dated 19.5.1981, enhanced compensation of the land which was categorised as Barani, whereas, with regard to other kinds of land, like, Chahi and Banjar Qadim, order of Land Acquisition Collector was maintained. Still dissatisfied with the compensation, so

assessed by learned District Judge, the present regular first appeal for further enhancement of the market price has been filed. Insofar as, the location of the land is concerned, learned District Judge, on the basis of the evidence led by the parties, and particularly on the statement of Shri Santokh Singh, Patwari, observed as follows :

"The abadi of this village is extending toward the acquired land. There are Shivalik Hills towards the east of the `abadi" of this village. According to its situation, the abadi of this Village can extend only towards the acquired land. It connects the `abadi" of this Village with NangalRoparChandigarh road, which is towards the east of the acquired land, and about 150 Karams, therefrom. Bridge, over the old canal, connects the acquired land with NangalRoparChandigarh Road. Kiratpur town is about 1/1 KMs. from the acquired land. Village Bhatauli, Janwal, Kiratpur Sahib and Kalayanpur constitute the `abadi" of Kiratpur town. Boundary of Village Bhattaul is about 11 KMs. from the acquired land. Towards east of Kiratpur town, are Shivalik Hills, while towards its west, is old canal, whereas towards its north, is the acquired land, while towards its South, is Gurdwara land. Before the acquisition of the land in question, the `abadi" of Kiratpur town was extending towards the acquired land."

3. The parties led evidence by producing the record of the mutations sanctioned on the basis of saledeeds Exs. P6, P.7, P9 and P10. It requires to be mentioned here that on an application filed under Order 41 Rule 27 of the Code of Civil Procedure, the appellants herein were permitted to lead additional evidence enabling them to produce on record the sale deeds relating to mutations Exs. P6, P7, P9 and P10, which were ordered to be exhibited as Exs. P12, P13, P14 and P15.

4. Whereas, the land measuring 2 kanals was sold at the rate of Rs. 36,000/ per acre vide sale instance Ex.P12 dated 12.5.1977, 2 kanals of land was sold vide Ex.P13 dated 27.6.1977 at the rate of Rs. 20,000/, 12 marla of land was sold vide sale instance Ex.P14 dated 31.8.1977, at the rate of Rs. 53,333/ per acre. The average price of these sale instances works out at Rs. 36,000/ per acre. Insofar as sale instance Ex.P10, dated 26.4.1978, is concerned, in considered view of this Court, the same cannot be taken into consideration as the same is postnotification instance. Except sale instance, Ex.P10, the other sale instances, referred to above, have to be held relevant, as would be clear from the findings recorded by learned District Judge in paragraph 1.1, wherein, reference has been made to all the mutations/sale deeds, as produced by the appellants. The relevant paragraph dealing with sale instances aforesaid, reads thus :

"The synopsis of the relevant instances of sales depended upon by the claimantpetitioners may be given, for quick grasp, as under :

See Table on Next Page

Sr. Exs. No.

Mutation No.

Date of sale

Kind of land

Kh. No.

Area

Sold Vill.

Sale Price

Price per acre

Rs.

Rs.

1. P1

260

6.6.74

Barani

421/5/2

0k10m

Bhagwala

1000/

16,000/

2. P2

261

4.7.74

G.M. abadi

132 to 34

0k5m

do

500/

16,000/

3. P3

266

14.8.75

Barani Banjar Jadid

423//6/2

0k15m

do

15,00/

16,000/

4. P4

266

27.10.75

Barani

0k19m

do

2000/

16,842/

5. P5

269

1.7.76

do

19

0k10m

do

25000/

40000/

6. P6

279

12.5.77

do

2k0m

do

9000/

36000/

7. P7

281

27.6.77

do

18 & 19

2k0m

do

5000/

20000/

8. P8

280

17.677

do

420//5/1

1k0m

do

2500/

20000/

9. P9

283

31.8.77

do

18 & 19

0k12m

do

4000/

53333/

10. P10

285

26.4.78

do

1/1

1k0m

do

9000/

72000/

11. P11

283

17.7.79

do

1/2

1k0m

do

2500/

20000/

5. Sale instances Exs. P12, P13 and P14 have, thus, to be held relevant, as conceded, the sale instances are from the same village from which the land had been notified for acquisition.

6. The only question that needs to be determined in the present case is as to whether the sale instances explained aforesaid have to be completely ignored as, indeed, has been done by learned District Judge or, in the facts and circumstances of the present case, the said sale instances being of small nature, the market price of the land, subject matter of acquisition, should be worked out by imposing a reasonable cut. It is too well settled by now and reference in this connection be made to judgements of Hon"ble Supreme Court in Bhagwathula Samanna and others v. Social Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, Visakhapatnam, JT 1991(4) SC 56 : 1992(1) RRR 257 (SC); P. Ram Reddy etc. v. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad etc., JT 1995(1) SC 539 : 1995(2) RRR 181 (SC); as also a Division Bench judgment of this Court in Baldev Krishan Singh v. Land Acquisition Collector, Ludhiana, 1999(2) PLJ 180 : 1999(4) RCR(Civil) 541 (P&H), that in instances of sale of small pieces of land, when vast area of land is acquired, a cut normally of 25% or 30% should be applied. It requires to be

mentioned at this stage that a positive finding has been recorded by learned District Judge that Abadi of the village, from which the land in question was acquired, could be extended only towards the land subject matter of acquisition.

7. Once, sale instances Exs.P12, P13 and P14 are relevant, as held by learned District Judge and as mentioned above, the same having pertained to the same village from where the land, subject matter of acquisition, is acquired, in considered view of this Court, the said sale instances could not be totally ignored on the ground that these pertain to sale of small pieces. At the most, a reasonable cut could be applied to work out just and proper compensation.

8. In totality of facts and circumstances of this case, and, in particular, that the village abadi could be extended only towards the land subject matter of acquisition, the Court is of the considered view, that 1/3rd cut, i.e., 33% on average sale price of the sale instances, referred to above, should be reasonable in working out just and proper compensation in the present case. As mentioned above, the average sale price of three instances, i.e., P12, P13 and P14, comes to Rs. 36,000/ per acre and if a cut of 1/3rd is applied, it comes to Rs. 24,000/ per acre. It requires to be mentioned and it is conceded position as well that all sale instances, referred to above, pertain to Barani land and if the price of Barani land is Rs. 24,000/ per acre, surely, Chahi land should be evaluated at a higher rate. The same, in view of this Court, should work out, at least at Rs. 26,000/ per acre. This Court would like to observe, at this stage, that if learned District Judge enhances the market price of Barani land from Rs. 12,000/ to Rs. 16,000/, some increase with regard to Chahi land ought to have been done.

9. In view of the discussions made above, this appeal is partly allowed. The market value of Barani land is assessed @ Rs. 24,000/ per acre, whereas that if Chahi land @ Rs. 26,000/ per acre. Mr. Saini, learned counsel representing the appellants informs the Court that no land owner, whose land may be Banjar Qadim, has filed the present appeal. That being so, no necessary arises to determine the market value of Banjar Qadim land. Inasmuch as, the award of learned District Judge, in the present case, came into being on 19.5.1981, the appellants shall not be entitled to any benefit of the amended provisions of the Land Acquisition Act.

The appeal is allowed in the manner indicted above with proportionate costs. Office shall work out the proportionate costs and, accordingly, prepare memo of costs.