(1989) 02 P&H CK 0129

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2404 of 1986

Kanwarjit Singh APPELLANT

Vs

The Tribunal Constituted Under The Punjab Towns Improvement Act, Kapurthla and others RESPONDENT

Date of Decision : 23-02-1989

Acts Referred:
Punjab Town Improvement Act, 1922 — Section 32

Citation : (1989) 02 P&H CK 0129

Hon'ble Judges : Naresh Chander Jain, J

Bench : Single Bench

Advocate : M.L. Sarin, with Mr. Sukhdev Singh, for the Appellant; G.C. Garg and Mr. S.C. Goyal, for the Respondent

Judgement

Naresh Chander Jain, J.—This judgment of mine would dispose of Civil Writ Petition No. 2404 to 2406, 2407, 2408 and 3211 to 3215 of 1936 as they have been filed against the award of the Tribunal Annexure P 1 by which the claimants have been held entitled to the grant of Rs. 240/- per marla by way of compensation with solatium at the rate of 30 per cent and interest at the rate of 9 per cent for one year from the date of possession and 15 per cent per annum thereafter. Few facts relevant to the controversy may be noted thus:

2. On 13th November, 1975, notification u/s 32 of the Punjab Town improvement Trust Act (hareinafter referred to as the ''Act'') was issued by Respondent No. 4 for framing a development scheme for residential purposes for which land measuring 44.3 was acquired by the Kapurthala Improvement Trust, Kapurthala. The Collector, Land Acquisition, Kapurthala divided the land into three blocks for the purpose of evaluating the market value of the acquired land. On a reference having been made u/s 18 of the Land Acquisition Act, the Tribunal categorised the land into two blocks. The Award of the Tribunal was subjected to challenge in several writ petitions. This Court in Civil Writ Petition No. 2567 of 1979 and other connected matters set aside the Award of the Tribunal given at an early stage

and remanded the cases for fresh decision on 24th September, 1979. The Tribunal vide its Award Annexure P. 1 assessed the market value of the acquired land at a flat rate of Rs. 250/- per marla. Both the claimants and the Improvement Trust have filed several wit petitions which, as observed above, are being disposed of by this judgment.

3. After perusing the judgment under challenge, an impres ion has been left upon this Court that the Tribunal has not dealt with the sale transactions in their right perspective. All the sale transactions have been discarded on the short ground that they pertain to the small pieces of lands ranging from one marla to 10 marla. This may or may not good ground ultimately but other evidence to the effect that some of the sale transactions are from the acquired land itself has not been even referred to in the Award It has come in the statement of certain witnesses which have been read out before me that some transactions of sale are from the acquired land itself. This evidence needed to be appreciated before rejecting the sale transactions. There is no absolute rule that whenever a particular sale transactions pertains to smaller area it must necessarily be rejected. If the sale transaction is relevant and comparable vis-a-vis the acquired land it can always be relied upon for determining the market value even if the sale transaction pertains to the small area. In that situation necessary cuts can be applied In any case, the Court of law has to hold after appreciating the entire evidence as to whether a particular sale transaction is comparable for determining the market value qua the acquired land. This is what precisely has not been done in the instant case. It would, therefore, be in the fitness of things that the Tribunal in the first instance must reappraise the entire evidence documentary as well as oral. It would be more appropriate if each and every sale transaction is referred to separately in the Award and then the conclusion is arrived at. The conclusion can be arrived at not only by making reference to each transaction of sale separately but its cumulative effect can also be seen by the court. The case is, therefore, remanded for a fresh decision in accordance with the observations made above.

4. Mr. M.L. Sarin Advocate, learned Counsel for the claimants has argued that he is entitled to the benefit of Section 23(1-A) of the Land Acquisition Act because the Award was given by the Tribunal after the amended provisions were brought on the statute-book. This point would also be gone into by the Tribunal.

5. Before parting with the judgment, it is necessary to observe that the ground on the basis of which the Tribunal has proceeded is not being held by this Court as invalid. The same may not be ultimately held to be good ground by the Tribunal. In other words, the Tribunal is left with all judicial discretion to rely upon one ground or the other forgiving its ultimate decision for the purpose of evaluating the market value of the acquired land of the claimants. In other words, any observation made in this judgment would not affect the mind of the Tribunal for granting compensation. Since the matter is quite an old one, the Tribunal would decide the same within a period of three months from the day it is

constituted and the parties put up their appearance before it. I have been informed by the learned Counsel for the parties that the term of the Tribunal has expired In order to avoid multiplicity of the proceedings and curtail delay, this Court directs the Punjab Government to constitute the Tribunal without causing any delay and in any case positively within a period of three months. A copy of the judgment be sent to the Chief Secretary and the Secretary, Local Self Government, Punjab, Chandigarh, forthwith so that the Tribunal can be constituted On appearance of the parties, if the restitution proceedings are moved before the Tribunal, the same be not decided till the decision of the main matter. The parties are left to bear their own costs in these matters

