
(1997) 02 P&H CK 0137

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 238 of 1987

Kapoor Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 06-02-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : (1997) 117 PLR 446 : (1997) 3 RCR(Civil) 387

Hon'ble Judges : Sarojnei Saksena, J;N.C. Jain, J

Bench : Division Bench

Advocate : C.B. Goel, for the Appellant; A.P. Manchanda, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Sarojnei Saksena, J.

1 This judgment of ours would dispose of Letters Patent Appeal Nos. 238 to 252 and 289 of 1987 as they arise out of common judgment of the learned Single Judge dated 23.3.1987.

2. The State of Haryana in pursuance of Haryana Government Notification Dated 28.2.1980 issued u/s 4 of Land Acquisition Act (hereinafter referred to as "the Act"), acquired land measuring 461 kanals 7 marlas. The land was situated within the municipal limits of Gharaunda, Tehsil and District Karnal. The aforesaid land was acquired for the establishment of New Grain Market, Staff Quarters, Gadda Shed and Rest House by the Market Committee, Gharaunda at Gharaunda. The Collector by his award dated 5.12.1980 assessed the market value of the acquired land at a flat rate of Rs. 14,240/- per acre. The landowners dissatisfied with the award, sought references u/s 18 of the Act demanding a compensation of Rs. 1,60,000/- per acre. The Additional District Judge, Karnal, by his award dated 3.10.1984 determined the market value of the acquired land at Rs. 16.53 per square yard. Feeling aggrieved against the award of the learned

Additional District Judge, the landowners filed Regular First Appeals before this Court. The learned Single Judge of this Court has categorised the land into two categories. The learned Single Judge has held that the land upto the depth of 150 ft. out of the land acquired along the side of the G.T. Road could in the near future be put to use for commercial or industrial purposes-and, therefore, it was reasonable to constitute the same in a separate belt. Accordingly the learned Single Judge assessed the market value of the land upto the depth of 150 ft, at Rs. 38.50 per square yard. The valuation of the rest of the land as was put by the learned Additional District Judge was allowed to remain intact.

3. Learned Counsel for the landowners at the very outset has submitted before us that he was the counsel before the learned Single Judge and that he never argued that there should be belting system. He has further argued that the entire land deserves to be valued at the flat rate which has been given by the learned Single Judge for the special category land i.e. at the rate of Rs. 38.50 per square yard.

4. The cases were taken up by us yesterday but the same could not be concluded. We directed the learned Additional Advocate General, Haryana, Mr. A.P. Manchanda, to apprise us after getting in touch with the counsel for the State whether the learned counsel for the appellants Mr. C.B. Goel, who appeared before the learned Single Judge argued at that time for the creation of a special belt for the land along with the G.T. Road. The learned counsel who appeared before the learned Single Judge a decade-back could not controvert before us today about the stand taken by Mr. C.B. Goel before us to the effect that he never argued the point regarding creation of special belt. No such ground was taken in the memorandum of appeal before the learned Single Judge. Even otherwise, this Court cannot think even for a moment that a counsel who daily appears before us would make a wrong statement on a point of fact. Even the learned Single Judge at one stage, did observe that the auction sales could not constitute a sound guide as spirit of competition enters amongst the bidders at the time of auction. After recording aforementioned finding, the learned Single Judge nevertheless still relied upon the auction sales for creating a special belt by splashing the average auction price to 50% for creating a special belt. The reasoning given by the learned Single Judge to say the least has not impressed us.

5. Adverting to the finding of the learned Single Judge on the point of valuation regarding the acquired land beyond 150 ft., it deserves to be noticed that the sale deeds produced by the claimants have not been commented upon in the impugned judgment. We cannot imagine as to what would have been the finding of the learned Single Judge regarding the valuation of the entire land if special belt had not been created by the learned Single Judge. May be, after examination of all the sale deeds the learned Single Judge might have increased the compensation or allowed it to remain intact. Since there is no observation regarding the sale deeds brought on the record of the case, this Court is only left

to apply its guess work.

6. The argument of learned counsel for the appellants Mr. C.B. Goel that the entire land should be valued at a flat rate of Rs. 38.50 per square yard is bereft of any merit. On the one hand, the learned Counsel has argued that he was not interested in the creation of a special belt whereas on the other hand he wants to take the benefit of value put upon the land in special belt for the purposes of determination of market value for the entire acquired land. The argument, in our considered view, is self contradictory. Moreover, as has been observed above, the learned Single Judge has not discussed other sale deeds except the auction sales and for this reason also this Court after setting aside the creation of special belt would not be evaluating the entire land at a flat rate and that too at Rs.38.50 per square yard.

7. For the reasons recorded above, this Court is left with no other option but to remand the cases to the learned Single Judge for afresh decision. The appeals are accordingly allowed with no order as to costs. The judgment of the learned Single judge is set aside. The appeals are remanded for afresh decision to the learned Single Judge. Nothing observed by us would mean any expression of opinion on the merits of the case. Since a lot of time has been consumed, it would be appropriate to direct the Registry to list the appeals for final hearing at a very early date. Consequently, the Registry is directed to list the appeals before the learned Single Judge on 4.3.1997.

8. Learned counsel for the parties would be at liberty to request the learned Single Judge to take up the matters on priority basis.