(2013) 05 P&H CK 0053

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 100 of 1994 (O and M)

Karam Singh and Others — APPELLANT

Vs

State of Haryana and Others — RESPONDENT

Date of Decision : 21-05-2013

Acts Referred:

Citation : (2013) 171 PLR 751

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Naveen Kumar for Mr. Ram Niwas Lohan, for the Appellant; Ashish Gupta, A.A.G., Haryana for the State, for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—The appeal is for enhancement of claim for compensation for the property acquired under the Land Acquisition Act of an extent of 7 Kanals 12 Marlas in Village at Kharkali (Kamal) for providing a double railway line between Panipat and Bhani Khurd. The acquisition notification had been made on 08.04.1983. The Land Acquisition Collector had determined compensation at Rs. 34,504/- per acre and at the trial, the owner relied on a transaction prior to the notification under P1 dated 12.05.1976 and yet another transaction post notification on 13.02.1984. P1 was an extent of 15 Marlas and P2 was an extent of 1 Kanal of land sold for Rs. 25,000/-. The State had relied on two transactions in Dhusali Village under R1 and R2, dated 20.05.1981 and 22.05.1982 for Rs. 8,000/- and Rs. 18,749/- per acre respectively. The Reference Court took P1 into consideration as the basis and considering the tact that the sale instance was for a small extent of 15 Marlas, applied a 1/3rd cut and provided for a compensation at Rs. 50,000/- per acre.

2. The learned counsel argues that there is a police complex near the acquired land and there are also factories nearby. I have seen through the rough sketch filed and find that the properties under P1 and P2 are situate in industrial sector farther away from the railway line. R1 and R2 also do not come in the immediate

vicinity of the acquired property, but were situate beyond a canal that existed along side at some distance from the railway line. The property being situate in another village when there are sale instances from the same village cannot therefore be preferred.

3. There is a sure handicap in this case that the best exemplars that could assist the Court in determining compensation have not been filed. P1 was for a transaction which was more than 4 years prior to the date of notification and I will not think that it should be the basis for acquisition of a property of about 7 kanals along the railway line. P2 is relatively of a larger extent of 1 kanal but this is again the post notification sale. When there are no proper sale instances prior to Section 4 notification, I would take P2 itself as the basis but considering the fact that it was for a transaction which was more than a year from the date of notification u/s 4 and that still it was near industrial complex, while the acquired property itself was not, I will make a deduction at the rate of 7.5% initially and make a further cut of 50% of the value so arrived on account of the fact that the property acquired was not situate anywhere near the industrial locality hut along an existing railway line. So reckoned, the value by rolling back the prices at 7.5% by considering a document post notification, the value of the property would be Rs. 1,50,000/-. Again, by applying a 50% cut as advocated earlier, the value of the property will be Rs. 75,000/-. This shall be the increase over the assessment already made by the District Judge and the landowner will also be entitled to all the statutory benefits. The appeal is allowed to the above extent.