
(1993) 12 P&H CK 0116
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 1307 of 1993

Karnal Improvement Trust

APPELLANT

Vs

Ram Parkash

RESPONDENT

Date of Decision : 14-12-1993

Acts Referred:

Land Acquisition Act, 1894 — Section 23
Punjab Town Improvement Act, 1922 — Section 36, 42

Citation : (1993) 105 PLR 574

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : C.B. Goel, Rajinder Goel and R.C. Chauhan, for the Appellant;
Randip Singh Surjewala, for Respondent Nos. 1 to 9 and Rachpal Singh, for the Respondent

Judgement

V.K. Jhanji, J.—Karnal Improvement Trust (hereinafter referred to as the Trust) vide resolution dated 20.8.1973 resolved to develop Scheme No. 37 for an area measuring approximately measuring 1,215 square yards. Notification u/s 36 of the Punjab Town Improvement Act, 1922 (for short the Act) was issued on 7.9.1973 and declaration u/s 42 of the Act was issued on 14.1.1976. What was acquired was built-up area and open area lying between various shops acquired by the Trust. The Collector awarded Rs. 100/- per sq.yd. as compensation for the built-up area but nothing was paid for the open spaces known as Phar area as it was found to be public property. Land-owners sought reference before the Tribunal where they not only asked for the enhancement of compensation for the built-up area but also claimed that they were entitled to compensation with regard to Phar area because that belonged to them. Tribunal enhanced the compensation to Rs. 1,336/- per sq. yd. for the built-up area and in some cases it awarded Rs. 1,072/- per sq. yd. but did not award anything for Phar area as it was also of the view that it formed part of the street and vested in the Municipal Committee and the landowners had no right to claim compensation. Tribunal also found that the claimants were entitled to allotment of plots as locally displaced

persons, as provided under the Karnal Improvement Trust (Land Disposal) Rules, 1970 (for short the Rules). The Trust as well as the landowners filed various writ petitions in this Court which were disposed of by G.R. Majithia, J, vide order dated 15.9.1989. The contention of the land-owners that Phar area was their private property, was accepted and it was held that claimants are entitled to compensation for the same. With regard to built-up area, it was held that claimants are entitled to compensation at the same rate as awarded for the built-up area i.e. Rs. 1,336/- per sq. yd. For determining the compensation for Phar area, the case was remanded to the Tribunal. Against the order of learned Single Judge, Letters patent Appeal was preferred by the Trust which was dismissed. Order of Letters Patent Appeal was impugned before the Supreme Court in Civil Appeals No. 3603 to 3614 of 1991. The Supreme Court passed the following order:-

"In the circumstances, we set aside the findings of the Tribunal as well as the orders of the High Court and direct the Tribunal to reconsider the question as aforesaid as regards the Phar and pass appropriate orders. It will be open to the parties to urge all their contentions relating to title and possession of property. We are not expressing any view of the questions raised in these appeals and they are left open. The parties shall appear before the Tribunal on 7th November, 1991 for further directions of the Tribunal. The appeals are disposed of accordingly."

2. Pursuant to this order, dispute regarding title of Phar area is pending consideration before the Tribunal. During the pendency of this consideration, an application was filed by the claimants for receiving compensation for the built-up area and in execution of that, certain F.D.Rs. of the Trust were got attached. Objections were raised by the Trust against these attachments inter alia on the ground that the Supreme Court had remanded the entire case to the Tribunal. The Executing Court dismissed the objection and found as follows:-

"I am also of the firm opinion that the Hon"ble Supreme Court of India has set aside the finding recorded by the Hon"ble High Court and the Tribunal with regard to the Phar land only and that the matter regarding the property of the petitioners other than the "Phar land" stands disposed of finally and the petitioners are entitled to compensation in respect of their property other than the "Phar land" at the rate of Rs. 1,336/- per square yard along with solatium at the rate of 30% interest of the rate of 9% per annum, for the year and at the rate of 15% of the subsequent period."

3. The Executing Court thus found that the Supreme Court remanded the case only in regard to Phar area. Before the Executing Court, landowners had also claimed benefit u/s 23(1-A) of the Act. Their entitlement to this benefit is still to be considered. The Executing Court, on finding that the matter was remanded only with regard to Phar area, ordered that the claimants would get 50 per cent of the amount claimed by them which nearly comes to Rs. 20,00,000/- in all the five cases. Consequently, F.D.Rs. of the Trust of the value of Rs. 60,00,000/-

which had been ordered to be attached vide order dated 10.5.1991, were ordered to be released with the direction that the F.D.R. of the value of Rs. 20,00,000/- would be encashed and the said amount would be remitted to the Court for payment to the claimants. The Trust has impugned the order of the Executing Court in this civil revision.

4. Having heard the learned counsel for the parties at some length, I am of the view that the Executing Court has rightly interpreted the order of the Supreme Court. The dispute which was left to be determined was only with regard to Phar area. So far as compensation regarding built-up area is concerned, the order of the learned Single Judge was not varied or set aside by the Supreme Court. As a matter of fact, the question regarding compensation of built-up area was not disputed or agitated before the Supreme Court. Thus, I am of the view that the landowners are entitled to receive compensation as awarded by the learned Single Judge. Faced with this situation, learned counsel for the Trust stated that the Trust has already paid more amount than what was due to the landowners. He wanted me to determine finally as to what amount is due to the claimants. For this, he referred to certain calculations given in para 16 of the grounds of revision. I am not prepared to go into this aspect of matter because it is for the Executing Court to decide whether the landowners have received compensation with regard to built-up area or still to receive some more amount from the Trust.

5. Counsel also raised question of entitlement of the landowners u/s 23(1-A) of the Act. This question is also not required to be answered here because no finding in this regard has been given by the Executing Court.

6. Consequently, this civil revision is disposed of with the direction that the Executing Court shall determine within a period of one month from the date of receipt of copy of this order whether the landowners are entitled to any other amount apart from the one they had already received. Till such determination, a sum of Rs. 20,00,000/- which was ordered to be deposited in a Nationalised Bank vide order dated 27.8.1993, shall remain operative. In case the period of F.D.R. has expired, the same shall be got renewed till such time the Executing Court finally determines the matter in the terms indicated above. No costs.