
(1994) 02 P&H CK 0042

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 880 of 1984

Lachhman (Deceased) Represented by his LRs

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 01-02-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1994) 108 PLR 300

Hon'ble Judges : R.P. Sethi, J;H.S. Bedi, J

Bench : Division Bench

Advocate : S.C. Kapoor and Ashish Kapoor, for the Appellant; S.C. Sibal and Deepak Sibal, for the Respondent No. 1, H.L. Sibal, A.G. and Jai Vir Yadav, D.A.G. for the Respondent No. 2, for the Respondent

Judgement

H.S. Bedi, J.—Land measuring 114 Kanals and 8 Marlas situated within the municipal limits of Gohana own was notified for acquisition u/s 4 of the Land Acquisition Act (for short the Act) on 1st July, 1976. The Land Acquisition Collector determined the value of the land at a flat rate of Rs. 8,000/- per acre, but on a reference sought by the claimants u/s 18 of the Act, the compensation was enhanced to Rs. 24,000/- per acre. Aggrieved by the award of the Court, the claimants as well as the respondent-State of Haryana assailed the correctness of the award in this Court; the claimants praying for a still higher rate of compensation and the State authorities assailing it on the ground that the same was excessive. The learned single Judge allowed the appeal of the claimants and granted compensation at the rate of Rs. 9/- per sq. yard. The present appeal has been filed by the claimants as they are still dissatisfied with the amount awarded to them. The learned single Judge for arriving at his conclusion recorded a finding that there was evidence on the file to show that the land in question had a potential value for being utilized as residential or commercial area on account of its location. He, however, did not choose to rely on the sale instances produced in the evidence, but based his finding on a judgment of this Court. Exhibit P-9 in which the land which was slightly better situated had been

evaluated at Rs. 12/- per sq. yard. The learned single Judge however found that though a period of about two years had intervened as the acquisition in the judgment Exhibit P9 had been made in the year 1974 whereas the one in the present proceedings had been initiated in the year 1976, this fact was off set as the land which was the subject-matter of appeal was somewhat low lying and a cremation ground and a filthy pond was also in the vicinity and as such, the two chunks could not be treated at par for determining its market value.

2. We have heard the learned counsel for the parties and find no merit in the appeal. The learned single Judge considered the matter in its entirety and keeping in view the location of the land and its condition felt that the compensation at the rate of Rs. 9/- per sq. yard i.e. 3/4th of the rate allowed in Exhibit P9 was the fair and just compensation. It is true that the notification u/s 4 of the Act in the relied upon matter was of the year 1974 and the one in the present proceedings was of 1976 but this time gap to our mind has been off set by the location nature and the quality of the land in question. Moreover, sitting on the letters patent side we would not ordinarily interfere unless something glaringly wrong was pointed out.

3. For the reasons recorded above, the present appeal is dismissed but in view of the decision of the Supreme Court in Union of India (UOI) and Another Vs. Raghbir Singh (Dead) by Lrs. Etc., the appellants are allowed the higher statutory solatium and interest as envisaged by the amendment to the Act. The question of the applicability of Section 23(1A) of the Act is, however, left open for decision at a later stage should the need arise as that matter is before the Hon"ble Supreme Court.