

(2010) 03 SHI CK 0218

In the High Court Of Himachal Pradesh

Case No : Regular First Appeal No. 221 of 1999 Alongwith Regular First Appeal No"s. 214 of 2000, 120 of 2001, 182 of 2001, 327 of 2001 And 9 of 2001

Land Acquisition Collector and Others

APPELLANT

Vs

Prakash Chand and others

RESPONDENT

Date of Decision : 16-03-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 54

Citation : (2010) 3 ShimLC 259

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble V.K. Ahuja, J.—This judgment shall dispose of all the aforesaid regular first appeals filed by the Land Acquisition Collector u/s 54 of the Land Acquisition Act (here-in-after referred to as "the Act") for setting aside the award passed by the learned District Judge, Hamirpur, H.P.

2. Brief facts of the case are that the lands were acquired by the State for a public purpose, namely, for setting up of a Regional Engineering College at Hamirpur and two notifications, dated 10.5.1985 and 26.11.1985 were issued u/s 4 of the Act for initiation of the proceedings for the acquisition of the land. The Land Acquisition Collector entered into reference and passed award granting compensation depending upon the quality of the land as under:

Sl. No.

Kind of land

Rate per kanal

1.

Barani-do-fasli

Rs. 11,742.80

2.

Barani-ek-fasli

Rs. 8,807.10

3.

BaindBanjar

Rs. 5,871.42

4.

BanjarKadim

Rs. 2,201.77

5.

Kharetar

Rs. 4,403.55

6.

GairMumkin

Rs. 2,201.77

3. Reference petitions were filed by the respondents u/s 18 of the Act and the learned District Judge, Hamirpur; vide his common award in all cases, granted compensation at the rate of Rs. 37,777/- per kanal, irrespective of the quality of land. Being aggrieved by the said award enhancing the compensation, the State has come up in the present appeals against the said award passed by the learned District Judge.

4. I have heard the learned Advocate General for the appellants and the learned Counsel for the respondents and have gone through the record of the case.

5. It is clear that the learned trial Court had enhanced the compensation from Rs. 11,000/- (maximum) granted, depending upon the quality of the land, to Rs. 37,777/- and in enhancing the compensation, the learned trial Court has mainly relied upon the sale deed Ext.A-1, dated 18.10.1984, proved in evidence before the learned trial Court. The plea taken by the learned Advocate General against the enhancement is that this sale deed was for a small piece of land and could not have been made the basis for enhancing of the compensation. No other infirmity was pointed out in the judgment passed by the learned District Judge except placing reliance upon this copy of the sale deed and it has to be considered as to whether the said enhancement was made without any basis by the learned trial Court.

6. Coming to the impugned award, it is clear that the sale deed Ext.A-1 relied upon by the learned trial Court, dated 18.10.1984, was qua the land measuring 9 marlas, which was sold for Rs. 17,000/- and accordingly the rate, in the present case, was assessed at the rate of Rs. 37,777/- per kanal. It has also been observed by the learned trial Court and it is also clear that this sale deed was executed prior to the date of issuance of the notifications in these cases i.e. 10.5.1985 and 26.11.1985. Therefore, this sale deed was quite relevant for considering the question as to the market value on the date of notification u/s 4 of the Act was issued by the Government. There is no dispute in this regard that this sale deed was duly proved from the statement of PW-6 Ranbir Chand, vendor.

7. Coming to the question that this sale deed was for a small piece of land, the sale deed Ext.A-1 was the only sale deed before the learned District Judge since no other sale deed had been proved. Therefore, this being the only sale deed, it could have been legally looked into by the learned trial Court. The sale deed was effected for 9 marlas of land and, therefore, it cannot be said that it was for a small piece of land. Therefore, there is no substance in the plea raised on behalf of the appellants that this sale deed is not relevant because it was only for a small piece of land.

8. Apart from this, the learned trial Court has also observed that the quality of the land was similar as involved in other award, copy of which award has been proved in evidence. The learned trial Court has also referred to the fact that Hamirpur was a fast developing town and various notifications had been issued for acquisition of the land in other parts of Hamirpur District, not at the district headquarters, but still the compensation which had been awarded was affirmed by the High Court in some of the cases referred to therein, in which the land was assessed at a higher value. Thus, it is clear that there is no infirmity in the judgment passed by the learned trial Court and the reasoning given by relying upon the sale deed Ext.A-1 cannot be said to be incorrect and keeping in view the fact that the prices are rising very high in various places of Himachal Pradesh, including Hamirpur District/Town, as observed by the learned trial Court, I am of the opinion that there is no infirmity in the judgment of the learned trial Court and the compensation awarded can be said to be reasonable. The respondents have already been held entitled to other costs, interests etc. as permissible under the law and the said judgment therefore, does not call for any interference or modification by this Court.

9. I accordingly hold that there is no merit in the appeals filed by the appellants which are dismissed accordingly. However, the parties are left to bear their own costs. A certified copy of this judgment be also placed on the record of other connected appeals.