
(1994) 02 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1179 of 1984

Malik Sushil Kumar

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 17-02-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 30(2)

Citation : (1994) 108 PLR 723

Hon'ble Judges : T.S. Doabia, J; R.P. Sethi, J

Bench : Division Bench

Advocate : Subhash Chander Kapoor and Ashish Kapoor, for the Appellant;
Nemo, for the Respondent

Judgement

T.S. Doabia, J.—A notification u/s 4 of the Land Acquisition Act (hereinafter called "the Act") was issued on 20.3.1978. This was followed by another notification u/s 6 of the Act. By these notifications a piece of land measuring 6.15 acres was acquired for the development and utilization of the same as sewer storm water and disposal works in the area of village Sonapat. The Land Acquisition Collector gave his award on 10.5.1979. In his award he categorised the land as "A" and "B". For category "A" land he allowed compensation at the rate of Rs. 220/- per Biswa. For "B" category land the price was fixed at Rs. 160/- per Biswa.

2. The land-owners were not satisfied with the assessment of compensation made by the Land Acquisition Collector and references were sought u/s 13 of the Act. The learned Additional District Judge, Sonapat, disposed of these references by a judgment dated 29.11.1982. He came to the conclusion that the entire land should be assessed as one single unit and he fixed the price of the land at Rs. 12/- per sq. yard.

3. The matter was taken up further in appeal in this Court. The learned Single Judge came to the conclusion that there, was room for making enhancement. The learned Judge formed this view on the basis of the judgment given by this Court in an earlier case Smt. Ganesh Devi v. State of Haryana, R.F.A. No. 070 of

1982 decided on 93.1984. On the basis of this judgment the learned Single Judge, came to the conclusion that the rate of Rs. 30/- per sq. yard should be given for the land falling within a depth of 400 feet from Sonapat-Bahalgarh road and for the rest of the land the compensation should be at the rate of Rs. 15/- per Sq. yard. Thus, the teamed Single Judge again bifurcated the land into two blocks. An argument was advanced before the learned Single Judge that as in the case of Ganeshi Devi's the acquisition was of the year 1976, there was room for further enhancement in the market value of the land because the time gap between the acquisition in dispute and the acquisition in the case of Ganeshi Devi was about two years. This contention did not find favour with the learned Single Judge as he found that the potential value of the land in dispute was not comparable to the potential of the land in the case of Ganeshi Devi.

4. One of the claimants has come up in the present Letters Patent Appeal. We have heard the learned counsel for the appellant and do not find any justification to differ with the well reasoned judgment given by the learned Single Judge. Cogent reason has been given for categorising the land into two blocks. We have perused the site plan also and find that no exception can be taken to the reasoning given by the learned Single Judge of this Court. Similarly, there is no room for making any enhancement on account of the fact that there is a gap of about two years between the acquisition in the case of Ganeshi Devi and the acquisition in dispute.

5. It may, however, be seen that the learned Additional District Judge, Sonapat, gave the decision on 29.11.1982. As such, the appellant would be within his right to claim benefit of Section 30(2) of the Land Acquisition (Amendment) Act (1984). For this reliance is being placed on a decision given by the Supreme Court of India in Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc., . In para 34 of the Judgment their Lordships of the Supreme Court observed as under:-

"We think that what Parliament intends to say is that the benefit of Section 30(2) will be available to an award by the Collector or the Court made between the, aforesaid two dates or to an appellate order of the High Court or of the Supreme Court which arises out of an award of the Collector or the Court made between the said two dates. The word "or" is used with reference to the stage at which the proceeding rests at the time when the benefit u/s 30(2) is sought to be extended. If the proceeding has terminated with the award of the Collector or of the Court made between the aforesaid two dates, the benefit of Section 30(2) will be applied to such award made between the aforesaid, two dates, if the proceeding has passed to the stage of appeal before the High Court or the Supreme Court, it is at that stage when the benefit of Section 30(2) will be applied. But in every case, the award of the Collector or of the Court must have been made between 30 April, 1982 and 24 September, 1984."

6. As in this case the learned Additional District Judge passed his judgment on 29.11.1982, the appellant would be entitled to the beneficial provisions as

introduced by the Land Acquisition (Amendment) Act (1984).

7. With the above modification the appeal preferred by the appellant is dismissed. No order as to costs.