
(1999) 09 P&H CK 0178

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 150, 461 and 1863 of 1998

Nakhi Ram and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 09-09-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1999) 123 PLR 574 : (2000) 1 RCR(Civil) 500

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : Viney Mittal and Arvind Bansal, in R.F.A. No. 150-98 and P.C. Dhiman, in R.F.A. No. 451-98, for the Appellant; Mohan Jain, A.G. and Rakesh Aggarwal, for the Respondent

Judgement

Swatanter Kumar, J.—It is commonly conceded position that all these cases relate to the acquisition of land from revenue estate of the same village and same notification dated 5.4.1990 u/s 4 of the Land Acquisition Act. Upon inviting objections, the Collector had passed a common award being Award No. 15 of 1992-93 and awarded a sum of Rs. 1,16,000/-per acre to the claimants. The learned Additional District Judges dealing with the respective cases, vide three different judgments, awarded compensation in Nar Singh's case at the rate of Rs. 1,40,000/- per acre, while in the case of Nakli Ram and Lachhu Ram, vide judgment dated 27.11.1997 and 11.3.1998 respectively awarded compensation at the rate of Rs.4 lacs per acre.

2. During the course of hearing, a serious doubt was expressed as to whether as per the law enunciated by the Hon'ble Supreme Court of India in the cases of A.P. State Road Transport Corporation, Hyderabad Vs. P. Venkaiah and others, and Special Deputy Collector and another etc. Vs. Kurra Sambasiva Rao and others, etc., , the sale instances produced on record by the respective parties i.e. State as well as the claimants are inadmissible or not. Besides this, there is no common substantive evidence which could help the Court in determining the just

and fair market value of the acquired land as on the date of acquisition. In the case of Lachhu Ram, the court relied upon the judgment of Nakli Ram and in the case of Nakli Ram, the court relied upon Nar Singh's case for granting the aforesaid compensation. The increase from Rs. 1,40,000/- to Rs. 4 lacs is primarily based upon the statement of PW6-Ramesh Chand, Kanoongo, who appeared in the witness box, unsupported by any record and stated that list submitted by the Patwari, Jagadhri shows the average price of the land of Jagadhri at Rs. 4 lacs per acre. There is also serious doubt whether in view of the judgment of the Hon"ble Supreme Court of India in the case of Himalaya House Co. Ltd., Bombay Vs. The Chief Controlling Revenue Authority, , the list prepared by the Collector or issued by the Secretariat of the State u/s 17 of the Indian Registration Act and under the Stamp Act, would be admissible in evidence as substantive evidence for determination of fair amount of compensation payable to the claimants for acquisition of their respective land or not.

3. Learned counsel for the parties commonly relied upon the judgment of this Court in the case of Union of India v. Puran Banti (1999)122 P.L.R. 63, where the Court after discussing the judgments of the Supreme Court i.e. A.P. State Road Transport Corporation, Hyderabad Vs. P. Venkaiah and others, and Special Deputy Collector and another etc. Vs. Kurra Sambasiva Rao and others, etc., held as under:-

"18. The cumulative effect of the above discussion is that it would not be fair and proper for this Court to determine the amount of compensation payable to the claimants and/or comment upon the claim of Union of India that the amount awarded by the learned Court below is in excess, merely on the basis of the limited admissible evidence on record. The principles of fairness would demand that the party should be afforded an opportunity to prove the said documents in accordance with law. If the process of law is truncated with an object to award the amounts in the present manner, it is bound to prejudicially affect the interests of not only the Union of India but also the claimants. The amount of village Damtal would hardly be of any consequence as the amount stands considerably reduced and the land is located in an area of different State. Rival contention in regard to other two awards I do not wish to discuss on merits in detail, so as to avoid the rights of any party being jeopardised before the Court below. As the sale deeds are inadmissible and interests of large number of claimants as well as of Union of India are very heavy, it would neither be fair nor equitable for this Court to pronounce the amount of compensation on more than one or two awards placed on record. There is considerable variation even in the amounts awarded in those awards and the court would have to find out some reasonable basis to award the amount of increase of those awards which again must be based on some evidence on record. In these circumstances the interest of justice demands that the matter should be remanded to the learned Court below for adjudication and determination of compensation in accordance with law. Such an approach would not be derivative in any manner, but would be reiteration of the directive contained in the judgment of Supreme court of India

in the case of P. Venkaiah (supra).

19. Another essential feature which the Court must take into consideration is that the present cases before the learned trial Court are not one the cases of no evidence or where there is no possibility of proper evidence which is admissible in accordance with law being led before the learned trial Court. In fact the parties had led evidence which is not admissible as per law but can be rendered admissible by compliance to the required principles of law and the principles enunciated by the Hon"ble Apex Court as stated above. The evidence now so produced would not only be relevant but would be enough material bearing on all aspects of this case i.e. award of compensation, element of increase, if the claimants are entitled to and even for proper application of rule of thumb. Well accepted canon of law is that reason is the soul of the decision making process. Lack of reasoning would render judicial decision open to attack on that ground alone. Even on that analysis remand of the case would not only be justifiable but appears to be essential.

4. Not only that I am influenced by the common stand taken by the learned counsel for the parties appearing before this Court including the Advocate General, State of Haryana, that the matter should be remanded but in view of the settled proposition of law and in order to avoid any unfair result either to the claimants, whose lands have been acquired or to the State, which has to pay the compensation, it will be just, fair and equitable to remand these cases for determination afresh.

5. There is certainly no substantive piece of evidence on record which could form the basis for final determination of the value of the acquired land as on the date of notification.

6. In view of the consent of the counsel for the parties and the reasons aforestated, while remanding these appeals to the learned Additional District Judge, Jagadhri, for afresh decision, I issue the following directions:-

- i. the evidence already led on record will be treated as evidence in these cases;
- ii. the Court shall grant opportunities to the State as well as the claimants to lead additional evidence;
- iii. all the cases shall be consolidated with Nakli Ram's case and tried by one and the same Court;
- iv. the doubt expressed by this Court in this judgment would not be treated as observations of this Court so as to influence the mind of the learned trial Court while adjudicating the matter afresh;
- v. the learned trial Court is requested to endure its best to complete the proceedings and pronounce the award as expeditiously as possible, preferably within six months from the date certified copy of this order is placed on the record of the trial Court; and

vi. the parties are directed to appear before the learned trial Court on 25.10.1999.

7. As a result of the above discussion, the judgments under appeals are set aside. The learned trial Court shall proceed with the matter in accordance with law and keeping in mind the directions contained in this order. However, the parties are left to bear their own costs.

8. The records of all these cases shall be sent to the trial Court by the Registry forthwith.

9. Registry shall ensure that a copy of this order is also placed on each file which will be transmitted to the learned trial Court.

10. Copy of this order be given dasti to the counsel for the parties.