(1980) 02 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 501 of 1986

Narinder Nath Sharma and anr. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 02-02-1980

Acts Referred:

Citation : (1989) 1 CurLJ 581 : (1989) PLJ 698 : (1990) 1 RRR 439

Hon'ble Judges : N.C.Jain, J

Advocate : Nipun Mital, Advocates., Arun Jain, Advocates for appearing Parties

Judgement

N.C. Jain, J. (Oral)

1. The Punjab Government issued a notification under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act) on 13th March, 19, 64 acquiring 41.40 acres of land at village Mani Majra in Hadbast No. 375, tehsil Kharar, district Ambala, for execution of soil conservation and other improvement work in the Sukhna Choe and for the purpose of raising a green belt around Chandigarh. As regards, the appellants before me, their land out of the aforesaid area of 41.40 acres is only, 2.5 acres. The Land Acquisition Collector by his award dated 30th March 1964, fixed the market value of the acquired land at the rate of Rs. 50/ per acre. On a reference having been made under Section 18 of the Act, the District Judge vide his award dated l8th November 1985, fixed the market value of the acquired land at the rate of Rs. 700/ per acre.

2. The land is, of course, stated to be situated in Mani Majra yet the same is by and large a part of Chandigarh. It has come in evidence that Railway Station is about 200 Karams from the acquired land. So is the Industrial Area Phase I situated at an equal distance. Similar is the position as regards transport area is concerned. Timber Market is away at a distance of 300 Karams from the acquired land. Before the acquisition,shops of carriage contractors and Railway Station had already come into, being. Not only that; farm houses were built before 1964.

3. On the basis of the aforementioned facts the learned counsel for the

appellants has vehemently argued that in view of the location of the acquired land, this Court can safely rely upon various sale transactions. which have taken place in the year 1962 and 1964. A bare look at the chart prepared by the District Judge in paragraph 15 would make it clear that one plot measuring 788 sq. yards was sold for a sum of Rs. 20,900/ and the rate per Maria would come to Rs. 663/. Similarly, another plot measuring 777.78 sq. yards was sold for a sum of Rs. 29,000/ and the rate per Marla comes to Rs. 933.50. Another transaction of sale of a similar plot measuring 176 Sq. yards was effected for a sum of as. 13, 100/ and the rate comes to Rs. 1860/ per marla. There is yet another sale transaction measuring 184 sq. yards and the rate when converted into Marlas comes to: Rs. 1,902/ per Marla, Besides the above transactions of the sale, another transaction of sale which can be relied upon safely is the sale of 5347.22 sq. yards of land. Thisplot was sold for a sum of Rs. 42,780/ and that too on 741964, whereas the notification under Section 4 of the Act was issued about 24 day prior to this sale transaction. PW 2 1. C. Gulati, Assistant in the office of the Estate Officer, Chandigarh, who had brought the official file deposed about all the five sale transactions which have been discussed above. The learned counsel has argued that even if the average of the aforementioned. sale instances is to be taken into consideration, the rate of the acquired land per Marla comes to about Rs. 1,000/. The value of the acquired land on the date of notification would thus come to Rs. 1,60,000/. There is considerable force in the submission made by the learned counsel for the claimants, Even if all allowances are given and all cuts are applied in view of the smallness of the sizes of the areas depicted in the sale transaction at serial No. I to 5 mentioned in paragraph No. 15 of the award, the market value of the acquired land on the date of notification could not have been evaluated at the rate of Rs. 700/ per acre. The minimum which can be granted by the Court is the one which has been claimed by the claimants in reference under Section 18 of the Act i, e. Rs, 10,000/ per acre.

4. Before parting with the judgment it is necessary to deal with the reasonsing recorded by the District Judge on the basis of which Rs. 700 /per acre have been evaluated as the market value of the acquired land. The sole basis of fixation of Rs. 700/ per acre as the market value. of the acquired land is the award given by this Court in Partap Singh and another v. Union of India, Regular First Appeal No. 245 of 1972, decided on April 2, 1979. May be the notification was issued on March 13,1964, the award given by this Court cannot be made the basis of fixation of market value in the present case for the simple reason that the sale instances brought by the claimants in the present case were not subject matter or discussion in the award given by this Court. On the other hand, a copy of the mutation evidencing the sale of 54 Kanals 14 Marlas of land in village Raipur Khurd for a sum of Rs. 3,942/ was made the basis of the fixation of market value at the rate of Rs. 700/, per acre in Partap Singh''s case (supra). It has come in evidence in the present case in the shape of statement of PW4 Raj Kumar, Patwari, who has stated on oath that village Raipur Khurd is situated at a

distance of five kilometres from the acquired land. This being the factual position, I am disinclined to place any reliance upon the reasoning of the District Judge. Surely, the appellants, who were not parties in the proceedings in Partap Singh''s case (supra) either before the Land Acquisition Collector or before the Court as well, cannot be said to be bound by any award given in their absence. Any claimant in a land acquisition case can, after leading evidence, show to the Court of law that he is entitled to the evaluation of his land which has been acquired on the basis of evidence which has been brought by him. He cannot be made to suffer for any lapse on the part of any other landowner who has not brought the relevant evidence while having his land evaluated in a separate award. The claimant may or may not take benefit of any other award but it cannot be said either in law or in equity that once an award, may be, it is relevant one for determination of the market value has been given, the same is that much binding upon another claimant that he cannot lead any evidence for the determination of facts and reasonable market value of the land owned by him.

5. In the light of the observations made above, this appeal is allowed. The appellants are held entitled to be granted the compensation at the rate of Rs. 100,000/ per acre. They are further held. entitled to the grant of statutory benefits under the amended provisions of Sections 23(A1), 23(2) and 28 of the Act. They shall also have proportionate cost of the appeal The counsel fee stands quantified at Rs. 1,000/.

