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**(1993) 04 SC CK 0096**

**In the Supreme Court Of India**

**Case No :** Civil Appeal No. 2336 Of 1980 With Civil Appeal Nos. 2540-41 And 2335 Of 1980

Parmeshwari Devi (Dead) by Lrs. and Others

APPELLANT

Vs

Punjab State Electricity Board and Another

RESPONDENT

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**Date of Decision :** 13-04-1993

**Acts Referred:**

Land Acquisition Act, 1894 — Section 23

**Citation :** (1994) 1 SCC 564 Supp

**Hon'ble Judges :** R. M. Sahai, J;K. Ramaswamy, J

**Bench :** Division Bench

**Final Decision :** Allowed

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**Judgement**

By Notification issued under Section 4(I) of Land Acquisition Act of 1894 for short the Act dated February 5, 1971 38 bighas and odd land situated in village Khanpur has been acquired for a public purpose, namely, for the construction of 132 KV Sub-Station at Khanpur. The Land Acquisition Officer by award dated May 23, 1972 determined the compensation at the rate of Rs. 9,900/- per acre. On reference under Section 18, the Civil Court by order dated May 3, 1975 enhanced the market value to Rupees 25,600,- per acre with usual solatium and interest. Dissatisfied therewith, the State carried the matter in an appeal. The appellant also filed cross objections. The learned single Judge by his judgment dated July 18, 1979 allowed the appeal set aside the enhanced award and confirmed the award of the Land Acquisition Collector. On Letters Patent Appeal No. 165 of 1979 the Division Bench confirmed the same on December 7, 1979. Thus this appeal, by special leave under Art. 136.

2. The learned Counsel for the appellants contended that the lands acquired and the lands adjacent thereto possessed of similar potentialities. There were three subsequent notifications acquiring the adjacent lands by notifications under Section 4(I), dated April 9, 1968, April 17, 1970, and August 13, 1971 though for different public purpose in respect of which the High Court in two different

judgments, which have been produced before us, enhanced the market value to Rupees 82,000/- per acre. It is, therefore, contended that the acquired lands being adjacent to those acquired lands, possessed of same potential value, the appellants are also entitled to the enhancement of the market value.

3. It is well settled law that it is the duty of the claimant to prove the sale deeds by adducing evidence either of the vendor or vendee or attesting witness of passing of the consideration under the sale deed, to prove that the sale transactions are genuine transactions between the willing vendor and willing vendee; that the consideration had in fact been passed under the document duly registered, represent the prevailing market value; and also the lands under acquisition and the lands concerning the sale are similarly situated and possessed of same or similar nature, advantages etc. The burden is always on the claimant. In this case that attempt was not made. Therefore, the High Court is right in rejecting the sale deeds relied on by the appellant. Since the Court has got to find whether the lands are possessed of potential value or any other advantageous features to determine the prevailing market value as on the date of the notification u/S. 4(I). When the similar lands situated very nearby i.e. 1500 sq. yards away from the lands acquired and has been awarded at Rs. 82,000/- per acre, the market value of the acquired land need to be determined. Since the lands under acquisition are of the same nature and possessed of the same potentialities, the claimants in these appeals also are entitled to similar treatment and award of proper compensation. In this case the appellants were awarded Rs. 25,600/- acre by the Civil Court. Therefore, the interference by the High Court in this behalf is clearly illegal. The appeals are accordingly allowed and award of the Civil Court is restored but under the circumstances without costs.