(2003) 09 P&H CK 0079

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 955 of 1985

Piare Lal APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision : 10-09-2003

Acts Referred:

Citation : (2004) 1 RCR(Civil) 455

Hon'ble Judges : Ashutosh Mohunta, J

Advocate : Mr. H.S. Hooda, Sr. Advocate with Mr. Ravinder Hooda, Advocate. Mr. Rajneesh Dhanda, AAG, Haryana., Advocates for appearing Parties

Judgement

Ashutosh Mohunta, J.

1. This is an appeal against the award of the District Judge, Faridabad, dated 18.3.1985 by which the learned District Judge upheld the award of the Land Acquisition Collector dated 25.9.1981 and maintained the compensation at the rate of Rs. 18,000/ per acre awarded to the claimants.

2. Briefly the facts of the case are that in pursuance of notification dated 25.7.1980 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as `the Act'') the State of Haryana intended to acquire land of the claimants for planned development at village Hathin. A Declaration under Section 6 of the Act was also issued immediately after the issuance of the notification under Section 4 of the Act. The Land Acquisition Collector by his award dated 25.9.1981 awarded compensation at the rate of Rs. 18,000/ per acre. The appellants feeling dissatisfied with the award of the compensation filed references under Section 18 of the Act before the District Judge, Faridabad, in which they claimed compensation at the rate of Rs. 200/ per square yard for their acquired land. However, the District Judge, Faridabad, vide his judgment dated 18.3.1985 upheld the award passed by the Land Acquisition Collector and maintained the compensation at the rate of Rs. 18,000/ per acre. It is against this judgment that the present appeal has been filed.

3. Mr. H.S. Hooda, learned counsel for the appellant, has contended that the compensation as awarded by the District Judge, Faridabad, is wholly inadequate as the reference Court did not place reliance on Exs. P1 to P3 which were in respect of sale of land in village Hathin itself. The claimants have claimed Rs. 18,000/ over and above the compensation awarded by the District Judge, Faridabad, and thus, they have claimed compensation at the rate of Rs. 36,000/ per acre.

4. The averments of Shri Hooda have been controverted by the counsel for the State. Surprisingly, the State has led absolutely no evidence at all, to show as to what as the price of the acquired land on the date of its acquisition. It has, however, been argued that Exs. P2 and P3 related to sale of land which took place on 7.1.1981 and 28.10.1980 respectively i.e. after the issuance of notification under Section 4 of the Act. It has also been argued that these sale transactions cannot be relied upon for determining the market value of the land. It has further been argued by the State counsel that as far as Ex.P1 is concerned it relates to a very small piece of land i.e. 2 marlas only and, thus, this piece of evidence would also not be relevant for determining the actual market value of the land acquired.

5. I have heard the learned counsel for the parties and perused the entire record with their help.

6. A perusal of Exs. P2 and P3 shows that the sales vide Exs. P2 and P3 related to transactions which took place on 7.1.1981 and 28.10.1980 respectively and as these sale transactions took place after the issuance of notification under Section 4 of the Act, therefore, they cannot be relied upon to determine the market value of the land. As far as Ex.P1 is concerned, the same related to a very small piece of land measuring 2 marlas only and, therefore, this also cannot be relied upon. Thus, in the absence of any evidence having been led by the State, we are virtually left with no evidence to determine as to what was the price of the acquired land. In such a situation, the Court has to rely on the award of the Land Acquisition Collector to determine the compensation. In State of Madras v. A.M. Nanjan reported in A.I.R. 1976 SC 651, the Apex Court has held that "Awards given by the Collector are atleast relevant material and may be in the nature of admission with regard to value of the land on behalf of the State and if the land involved in the awards is comparable land in reasonable proximity of the acquired land, the rates found in the said documents would be a reliable material to afford a basis of work upon for determination of compensation, on a later date. The award, therefore, cannot be treated as inadmissible for the purpose of determination of compensation". Keeping in view the above observations of the Supreme Court, I proceed to determine the market value of he land on the basis of the award of the Land Acquisition Collector.

7. A perusal of the award of the Land Acquisition Collector shows that he had taken into consideration as many as 12 sale deeds determining the market value of the land to be Rs. 18,000/. A perusal of these 12 sale deeds shows that only 4

of them are relevant for the purpose of determining the compensation. These are as under :

i) Mutation No. 4172 whereby 2 kanal 13 marlas of land was sold for Rs. 20,000/ on 17.9.1979.

ii) Mutation No. 4122 whereby 6 kanal 13 marlas of land was sold for Rs. 15,000/ on 10.8.1978.

iii) Mutation No. 4202 whereby 04 marlas of land was sold for Rs. 3,000/ on 27.3.1980.

iv) Mutation No. 4141 whereby 05 marlas of land was sold for Rs. 2,000/ on 21.4.1977.

8. The land sold by virtue of the above sales was in close proximity to the land acquired in the present case. In order to determine the market value of the acquired land, the average price of the aforementioned four sale deeds will have to be taken. Thus, the total area of the four sale deeds mentioned above would have to be added and then divided by the sale consideration. The net result of the calculation according to the above formula would be that 195 marlas of land was sold for Rs. 40,000/ i.e. Rs. 205.12 per marlas which comes to Rs. 32,820/ per acre. Although the sales are of relatively small pieces of land but the Land Acquisition Collector himself had taken the aforementioned four sale deeds into consideration and as all the four transactions relate to sale of land which was in close proximately to the acquired land, therefore, no cut is leviable

9. In view of the above, compensation in the present case is determined on the basis of the relevant sale deeds produced before the Land Acquisition Collector and accordingly the market value of the acquired land in the present case is assessed at Rs. 32,820/ per acre. The claimants shall also be entitled to solatium at the rate of 30% and interest at the rate of 9% from the date of taking over of possession of the land and 15% thereafter. The appellant shall also be entitled to proportionate costs.

Resultantly, the judgment of the District Judge, Faridabad, dated 18.3.1985 is set aside and the appeal is allowed in the aforesaid terms.

