(2009) 05 P&H CK 0200

In the Punjab And Haryana At Chandigarh

Prithipal Singh APPELLANT

Vs

U.T. RESPONDENT

Date of Decision : 11-05-2009

Acts Referred:
Land Acquisition Act, 1894 — Section 18, 4

Citation : (2009) 156 PLR 165

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of 26 Regular First Appeals bearing Nos.3066, 2115,2145, 2149 to 2154, 2161, 2222 to 2233, 2838 and 2450 of 2005 all filed by the claimants against the award of Additional District Judge, Chandigarh dated 11.1.2005 claiming compensation for the acquisition of super structures over the acquired land. However, for the sake of convenience, the facts are being extracted from RFA No. 3066 of 2005.

2. Vide notification issued u/s 4 of the Land Acquisition Act, 1894 (for short ''the Act'') dated 2.3.2001, 11 kanals 18 marlas of land in Village Jhumru and 30 Kanals 7 Marias of land in village Burail, U.T., Chandigarh was acquired. The Land Acquisition Collector, U.T. Chandigarh (for short ''the Collector") vide his award No. 549 dated 28.2.2002 awarded compensation @ Rs. 5,36,427/- per acre and Rs. 4,41,600/- per acre for land of villages Jhumru and Burail, U.T. Chandigarh respectively. In the process of acquisition of land, super structures over the land in question was acquired and were also compensated by the Collector but at rate of scrap which led to filing of Objections u/s 18 of the Act. The learned Reference Court while disposing of the Objections, observed that the claimants shall not be entitled for compensation in respect of unauthorized construction raised by them over the land acquired by the Government, however, they were held entitled to recover Rs. 2,500/- for each hand pump. Provoked by the denial of enhancement in respect of compensation for super structures on the pretext of being

unauthorized, the claimants have come up in appeals before this Court.

3. Sh. P.C. Dhiman, learned Counsel appearing for the appellants/claimants has relied upon a decision of this Court in R.F.A. No. 579 of 2006 Smt. Akko Devi v. U.T. Chandigarh decided by Hon''ble Mr. Justice Rajesh Bindal on 1.10.2008 to contend that the appellants are entitled to compensation, for the super structures which may or may not be unauthorized, on the value assessed at PWD rates with 25% increase thereon. As against this, learned Counsel for U.T. Chandigarh has vehemently contended that since the super structures were unauthorized, therefore, in view of law laid down by the Supreme Court in the case of State of Orissa Vs. Rajakishore Das, , no compensation should be enhanced.

4. I have heard learned Counsel for the parties and have perused the record with their assistance.

5. In the case of Smt. Akko Devi and Ors. v. Union Territory, Chandigarh and Anr. (supra), notification dated 3.7.1997 was issued u/s 4 of the Act, whereby 83 acres of land in villages Nizampur, Burail and Jhumru was acquired. The Collector determined the market value @ Rs. 5,91,200/- per acre but he did not award any compensation in respect of super structures erected on the acquired land. Since no compensation was awarded for super structures, the land owners filed objections before the Collector but the Objections were dismissed by the Additional District Judge, Chandigarh upholding the award of the Collector. In the aforesaid case, the appellant had relied upon various decisions of this Court in RFA No. 894 of 1976 titled as Hans Raj and Ors. v. Chandigarh Administration decided on 8.4.1980; RFA No. 2608 of 1980 titled as Dharam Vir and Ors. v. Union of India decided on 18.8.1981; R.F.A. No. 2560 of 1987 titled as Hazura Singh v. Union of India? decided on 25.2.2004; R.F.A. No. 2340 of 1998 tilted as Suraj Bhan and Ors. v. Union Territory Chandigarh decided on 24.9.2008; Jai Kaur v. State of Punjab and Anr. 1992 L.A.C.C. 501 and Union of India (UOI) Vs. Pal Singh and Another, . This Court considered the aforesaid judgments as well as judgment of the Supreme Court in the case of State of Orissa v. Rajakishore Das (supra) and opined that if the land has been acquired along with super structures, compensation for super structures should also be given in terms of the assessment made at PWD rates with an addition of 25% increase thereon.

6. Mr. P.C. Dhiman, learned Counsel for the appellants has also referred to Ex. R1 which is the assessment of super structures of village Burail, Ex.R2 and Ex.R3 which are assessment of super structures of village Jhumru prepared by the Executive Engineer CP Divn. No. 2 Chandigarh. It is submitted that acquired super structures are basically residential houses comprising of one or two rooms and cattle shed etc. which has been assessed at PWD rates as well but the Collector as well as learned Reference Court has awarded the scrap value.

7. Learned Counsel for the appellants has also submitted that acquisitions in the present case are of villages Jhumru and Burail which were not part of Municipal

Corporation, Chandigarh at the time of acquisition.

8. On the contrary, learned Counsel for respondent-U.T. Chandigarh submits that acquired land forms part of villages Jhumru and Burail and was not part of Municipal Corporation or Municipal Committee at the time when the land was acquired but it was within the periphery of Chandigarh where no construction was allowed without permission, therefore, the construction was unauthorized.

9. After hearing the contentions raised by both the learned Counsel for the parties, I am of the view that the appellants are entitled to compensation of their super structures which have been acquired with the land on the value assessed at PWD rates with 25% increase thereon. I find support from the decision of this Court in the case of Smt. Akko Devi and Ors. v. Union Territory, Chandigarh and Anr. (supra), which has not been challenged as on today as stated by the learned Counsel for U.T. Chandigarh.

10. In view of the above discussion, it is ordered that the appellants shall be entitled to compensation of the acquired super structures on the value assessed at the PWD rates with 25% increase thereon. The present appeals are thus, allowed with costs.

