(2006) 05 P&H CK 0134

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1599 of 1986

Private Trust APPELLANT

Vs

Land Acquisition Tribunal, Ludhiana and others RESPONDENT

Date of Decision : 02-05-2006

Acts Referred:

Citation : (2007) 1 PLR 773 : (2007) 1 RCR(Civil) 433

Hon'ble Judges : Ashutosh Mohunta, J and Mahesh Grover, J

Advocate : Mr. M.L. Sarin, Sr. Advocate assisted by Mr. Hemant Sarin, Advocate; Mr. O.P. Goyal, Sr. Advocate assisted by Mr. Parmod Goyal, Advocate; Mr. C.M. Munjal, Sr. Addl. A.G., Punjab; Mr. Pardeep Bhandari, Advocate; Mr. G.S. Punia, Advocate; Mr. A.S. Tung, Advocate for Ludhiana Improvement Trust., Advocates for appearing Parties

Judgement

Ashutosh Mohunta, J.—This judgment will dispose of aforementioned writ petitions, as all these writ petitions arise out of a common notification issued under Section 36 of the Punjab Town Improvement Act, 1922 (hereinafter referred to as `the Act'') and also arise out of a common award dated 20.9.1974 passed by the Land Acquisition Collector. However, we are taking the facts from CWP No. 1599 of 1986, titled `Private Trust through its Trustees v. The Land Acquisition Tribunal, Ludhiana and others''.

2. Briefly, the facts of the case are that Ludhiana Improvement Trust vide notification published on 11.8.1972 under Section 36 of the Act intended to acquire 100 acres of land located on Rajpura Road for the purpose of development scheme called "100 Acres Development Scheme". The Land Acquisition Collector, Ludhiana divided the entire land into two blocks, namely `Block A'' and `Block B'' and awarded a sum of Rs. 113/ per biswansi (Rs. 15/ sq. yard) for land falling in Block A and Rs. 75/ per biswansi (Rs. 10/ per sq. yard) for land falling in Block B vide his award dated 20.9.1974.

3. Being dissatisfied by the award passed by the Land Acquisition Collector, the petitioners filed reference petitions before the Land Acquisition Tribunal,

Ludhiana under the Act claiming higher compensation. The reference petitions filed by the petitioners were allowed by the Tribunal vide judgment dated 31.7.1985, Annexure P1 to the writ petition. As per the award the Tribunal awarded Rs. 39/ per sq. yard for land falling in Block A and Rs. 31/ per sq. yard for lands falling in Block B. Apart from the above, the landowners were also held entitled to 6% per annum interest from the date of possession till the date of deposit plus 30% solatium. However, no benefit under Section 23(1A) of the Act was given to the landowners.

4. It is against the judgment of the Tribunal that the landowners have filed writ petitions challenging the award of the Tribunal. The Improvement Trust, Ludhiana has also filed writ petitions against the same award.

5. Mr. Sarin, learned Senior Advocate appearing for the landowners has assailed the award Annexure P1 on four counts : (i) It is contended that the landowners were entitled to compensation under Section 23(1A) of the Act as the award was passed after 30.4.1982; (ii) it has been claimed that the petitioners are entitled to interest @ 9% per annum for the first year and 15% per annum thereafter; (iii) it is also claimed that the compensation should have been awarded at a flat rate as the entire land which has been acquired falls within the municipal limits of Ludhiana town and, therefore, the classification of land in Block A and Block B be done away with and the flat rate be awarded; and (iv) as there is delay in passing the award from the date of issuance of notification under Section 6 of the Act, therefore, enhanced compensation should also be awarded to the landowners.

6. The argument of Mr. Sarin has been controverted by Mr. Munjal, who argued that the petitioners are not entitled to the compensation under Section 23(1 A) in view of the judgment in K.S. Paripoornan v. State of Kerala and others, 1995(1) RRR 40 (SC) : AIR 1995 SC 1012. He further contended that the compensation awarded is already on the higher side and the same should be reduced because the saledeeds relied upon by the Tribunal are of small pieces of lands and the same cannot form the basis for determining the compensation. It is further contended that the notification under Section 36 of the Act was issued on 11.8.1972, whereas the award had been passed on 20.9.1974 and, therefore, there is no inordinate delay in passing the award.

7. We have heard the counsel for the parties at great length and are of the view that as far as the determination of compensation for Block A is concerned, the Tribunal has relied upon saledeed Exhibit A12 vide which 400 sq. yard land was sold on 24.12.1970 for a sum of Rs. 11,600/ and stamp for Rs. 720/ was also affixed. The compensation as per this saledeed comes to Rs. 30/ per sq. yard approximately. The Tribunal has also relied upon a saledeed Exhibit A11 by which 300 sq. yard of land was sold on 5.5.1973 and average price of which comes to Rs. 53/ per sq. yard. The Tribunal has also relied on Exhibit AA1 passed by the Tribunal itself in the case of N.S. Sodhi which arises out of the acquisition from Khasra No. 470 which has been acquired under the same scheme according to

which the compensation awarded was Rs. 39/ per sq. yard.

8. A perusal of the above saledeeds and the award shows that as far as Exhibit A11 is concerned, the same is post notification and, therefore, when saledeeds prior to the issuance of notification under Section 6 are available, this saledeed has to be discarded and cannot be relied upon. As per Exhibit A12 the price of land comes to Rs. 30/ per sq. yard approximately. As the notification in the present case has been issued three years subsequently, therefore, if we grant approximately 12% enhancement per year, the price of land would work out to Rs. 37/ or Rs. 38/ per sq. yard. However, as we already have an award Exhibit AA1 passed by the Tribunal itself in the case of one N.S. Sodhi, which is part of the same scheme in which Rs. 39/ per sq. yard has been awarded as compensation, we are of the considered view that the compensation award by the Tribunal for Block A is just and fair and it does not call for any enhancement or decrease.

9. The Tribunal has awarded a sum of Rs. 31/ per sq. yard for lands falling in Block B. The reason for dividing the acquired land in two blocks adopted by the Tribunal was that some lands were abutting the main road i.e. Rajpura Road and other lands were at the back. However, we are in agreement with the submission made by Mr. Sarin that as the land was acquired for one scheme which is known as "100 Acres Development Scheme" and the entire lands falls within the municipal limits of Ludhiana town, therefore, there is no justification in classifying the lands in two blocks or groups. Therefore, we award a flat rate of Rs. 39/ per sq. yard for the entire land falling in the "100 Acres Development Scheme".

10. The next contention of Mr. Sarin was that the petitioners are entitled to the benefits under Section 23(1A) of the Act. A perusal of the judgment in K.S. Paripoornan (supra) shows that as the award of the Collector has been passed much prior to Rs. 30.4.1982, therefore, the landowners would not be entitled to any compensation under Section 23(1A). The petitioners have also claimed benefits of enhanced interest in terms of Sections 28 and 34 of the Act. In the instant case as the Reference Court has given its award on 31.7.1985, i.e. after the Amending Act came into force i.e. on 30.4.1982, therefore in view of Union of India and another v. Raghubir Singh (Dead) by LRs. etc., 1989(1) RRR 552 (SC) : AIR 1989 SC 1933 the landowners would be entitled to interest @ 9% per annum for the first year from the date of dispossession and @ 15% thereafter.

11. Mr. Sarin also argued that the petitioners were entitled to enhanced amount on account of delayed passing of the award. However, we find that the award had been promptly passed and no amount is to be awarded to the landowners on this count.

12. In view of the aforementioned discussion, we partly allow the writ petitions filed by the landowners pertaining to the "100 Acre Development Scheme" and award a flat rate @ Rs. 39/ per sq. yard for the entire land acquired by the

Ludhiana Improvement Trust. The landowners are also held entitled to 30% solatium as has already been awarded by the Tribunal and interest @ 9% per annum for the first year from the date of dispossession of the petitioners and @ 15% per annum thereafter.

13. As far as the writs filed by Ludhiana Improvement Trust are concerned, they have filed a single joint petition i.e. CWP No. 6247 of 1986 against numerous awards which is not maintainable in view of the judgment in The Jalandhar Improvement Trust through its Chairman v. The President Land Acquisition Tribunal, Jalandhar Improvement, Jalandhar, 1993(1) RRR 501 : 1992(2) PLR 268 wherein it has been held that where separate awards have been passed by the Tribunal and the same have been challenged by filing a single petition then a joint petition against all the claimants in whose favour separate orders has been passed is not competent. In view of the above, the writ petitions filed by Ludhiana Improvement Trust are dismissed. There shall be no order as to costs.

Petitions partly allowed.

